



# Planning Applications Committee Agenda

1.30 pm, Wednesday, 9 November 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 19 October 2022 (Pages 5 - 10)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative (Pages 11 - 12)
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 13 - 14)
  - (a) Bishopton Land South of Gately Moor Reservoir, Redmarshall Road, Bishopton (Pages 15 - 50)
  - (b) Land North of Burtree Lane, Burtree Lane, Darlington (Pages 51 - 88)
  - (c) Objection to Tree Preservation Order Number 2022 No. 8 - 23 Merrybent, Darlington (Pages 89 - 94)
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 Town & Country Advertising Limited against this Authority's decision to refuse permission to display 2no. illuminated LED sign boards at Land at former Dainton Stie, Yarm Road, Darlington DL1 4JN (22/00398/ADV) (Copy of Inspector's decision enclosed).

Dismissed the appeal by Tim Paver against this Authority's decision to refuse permission to undertake work to trees protected by a Tree Preservation Order at Land at 20 Freville Grove, Darlington, DL3 9QN (21/01208/TF) (Copy of Inspector's decision enclosed).

Dismissed the appeal by Ms P Fletcher against this Authority's decision to refuse permission for the construction of one 2 bedroom single storey dwelling and one 3 bedroom two storey dwelling at 87 Barmpton Lane, Darlington, DL1 3HG (20/01126/FUL) (Copy of Inspector's decision enclosed).

**RECOMMENDED** – That the report be received.  
(Pages 95 - 106)

9. Notification of Appeals –

The Chief Executive will report that :-

Mrs Claire Greenall has appealed against this Authority's decision to refuse permission for the erection of 1.8m fence to side and rear of the property at 43 Paton Way, Darlington, DL1 1LP (22/00456/FUL).

**RECOMMENDED** – That the report 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 27 October 2022 (Exclusion Paragraph No. 7) –  
Report of the Chief Executive  
(Pages 107 - 114)
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, 1 November 2022**

**Town Hall**  
**Darlington.**

**Membership**

Councillors Allen, Bartch, Cossins, Heslop, C L B Hughes, Johnson, Mrs D Jones, Laing, Lee, Lister, McCollom, Sowerby and Tait

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](mailto:paul.dalton@darlington.gov.uk) or telephone 01325 405805

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## PLANNING APPLICATIONS COMMITTEE

Wednesday, 19 October 2022

**PRESENT** – Councillors Cossins, Heslop, Johnson, Mrs D Jones, Laing, Lee, McCollom, Sowerby and Tait.

**APOLOGIES** – Councillors Allen, Bartch, C L B Hughes and Lister.

**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).

### PA27 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

### PA28 TO APPROVE THE MINUTES OF THE MEETINGS OF THIS COMMITTEE HELD ON 29 JUNE 2022 AND 7 SEPTEMBER 2022

**RESOLVED** – That the Minutes of the meetings of this Committee held on 29 June 2022 and 7 September 2022, be approved as correct records.

### PA29 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

A3	<p>Implementation Limit (Three Years)</p> <p>The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.</p> <p><b>Reason</b> - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
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### PA30 WESTHOLME FARM, WALWORTH ROAD, HEIGHINGTON, DARLINGTON

**22/00294/FUL** - Change of use from agricultural land to touring caravan and camping site for 16 pitches with the erection of a toilet & shower block. Alterations to site entrance, boundary treatments, landscaping and other associated works (Retrospective Application) (amended plans received 22 August 2022).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the objections from three households received, and the views of the Council's Highways Engineer, and the views of an Objector, 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 plan, as detailed below:

- a. Drawing Number 2745 – 6C Proposed Block Plan
- b. Drawing Number 2745 – 7C Proposed Site Plan
- c. Drawing Number 2745 – 8A Proposed Ground Floor
- d. Drawing Number 2745 – 9A Proposed Elevations
- e. Drawing Number 2745 – 10A Proposed Elevations
- f. Drawing Number 2745 – 11A Site Views
- g. Drawing Number 2745 – 12B Toilet and Shower Block Elevations

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

3. The proposed use hereby approved shall be for a maximum of sixteen pitches for touring caravans, motorhomes and tents only.

**REASON** - For the avoidance of doubt and in the interests of the amenity of the area

4. No caravan, motorhome or tent shall be pitched or stationed on the land other than within the area shown outlined in red on Drawing number 2745-6C (Proposed Block Plan), so long as the use hereby approved continues.

**REASON** - For the avoidance of doubt and in the interests of the amenity of the area

5. All caravans, motorhomes and tents shall be occupied for holiday purposes only

**REASON** - To ensure the development accords with policy E4 Bi) (Economic Development in the Open Countryside) of the Darlington Local Plan 2016 -2036

6. All caravans, motorhomes and tents shall not be occupied as a person's sole, or main place of residence.

**REASON** - To ensure the development accords with policy E4 Bi) (Economic Development in the Open Countryside) of the Darlington Local Plan 2016 -2036.

7. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans, motorhomes and tents and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

**REASON** - To ensure the development accords with policy E4 Bi) (Economic Development in the Open Countryside) of the Darlington Local Plan 2016 -2036

8. There shall be no storage of unoccupied caravans, motorhomes and tents on site.

**REASON** - In the interests of the visual appearance and amenity of the site and local area.

9. The development shall not be carried out otherwise than in complete accordance with the mitigation measures contained with Section 6.2 of the submitted Ecological

Scoping Report (dated July 2022 and produced by Falco Ecology).

**REASON** - In order to meet biodiversity net gain requirements, set out in policy ENV8 of the Darlington Local Plan (2016 – 2038) and the National Planning Policy Framework 2021.

10. The replacement hedge planting secured under condition 9 shall be planted during the next available planting season, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any section of the hedge or whips removed, dying, severely damaged or becoming seriously diseased shall be replaced 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 and biodiversity net gain.

### **PA31 30 CHURCH ROW, HURWORTH, DARLINGTON**

**22/00788/FUL** - Siting of mobile studio on terrace to the rear of property and repositioning of steps (retrospective).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three letters of objection received, twelve letters of support received, and the views of the Applicant and two Objectors, 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 constructed in accordance with the external materials/finishes as set out in the application, unless otherwise agreed, in writing, with the Local Planning Authority.

**REASON** - In the interests of maintaining the visual amenity of the development in accordance with the requirements of Policies DC1 and ENV1 of the Darlington Local Plan 2016-2036.

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

- (a) Drawing Number - 2020/129/F1 - Section A-A.
- (b) Drawing Number - 2020/129/F2 - Proposed & Existing South
- (c) Drawing Number - 2020/129/F3 - Proposed Plan & Section B-B.
- (d) Drawing Number - 2020/129/F4 Proposed Elevations.
- (e) Drawing Number - 2020/129/F5 Proposed Site Plan.

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

4. The development for which permission is hereby granted shall be used for purposes

incidental to the enjoyment of 30 Church Row and shall not be occupied, let, or otherwise disposed of as a separate dwelling.

**REASON** - The development is considered unsuitable for use or occupation by a separate person or household not related to the occupiers of the application property and to protect the amenities of neighbouring residential properties, in accordance with the requirements of Policy DC4 of the Darlington Local Plan 2016-2036.

## **PA32 NOTIFICATION OF DECISION ON APPEALS**

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

Dismissed the appeal by Mr Liam Coates against this Authority's decision to refuse permission to undertake work to trees protected by a Tree Preservation Order (crown lift 3 Beach trees to 5m) at 16 Cardinal Gardens, Darlington, DL3 8SD (20/01163/TF)

Dismissed the appeal by Mr Sharif Hunashi against this Authority's decision to refuse permission for the proposed is the installation of garden fence around front and side of property (behind existing brick wall). At 51 Neville Road, Darlington, DL3 8HZ (22/00437/FUL)

Dismissed the appeal by Mrs Lesley Horner against this Authority's decision to refuse consent for the felling of 1 Pine tree (T1), (T62PINEA) protected under Tree Preservation Order (no. 3) 1962 at 12 Cardinal Gardens, Darlington DL3 8SD (20/00678/TF)

**RESOLVED** – That the report be received.

## **PA33 NOTIFICATION OF APPEALS**

The Chief Executive reported that :-

Mr Sean Taylor had appealed against this Authority's decision to refuse permission for the Erection of detached double garage to front of property at 21A Merrybent, Darlington, DL2 2LB (22/00686/FUL)

Mr Simon Cavanagh had appealed against this Authority's decision to refuse permission for the Erection of 1 no. residential dwelling with associated works at 219 Carmel Road North, Darlington, DL3 9TF (21/01134/FUL)

**RESOLVED** – That the report be received.

## **PA34 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.



**PA35 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 7 OCTOBER 2022 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA26/Sept/2022, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 7 October 2022.

**RESOLVED** - That the report be noted.

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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.

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**BOROUGH OF DARLINGTON**

**PLANNING APPLICATIONS COMMITTEE**

**Committee Date – 9<sup>th</sup> November 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.**

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

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<b>Address/Site Location</b>	<b>Reference Number</b>
Bishopton Land south of Gately Moor Reservoir Redmarshall Road BISHOPTON	22/00727/FUL
Land north of Burtree Lane Burtree Lane DARLINGTON	22/00213/FUL

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## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 9 November 2022

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APPLICATION REF. NO:	22/00727/FUL
STATUTORY DECISION DATE:	17 October 2022 (Extension of time 11 November 2022)
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	Land south of Gately Moor Reservoir, Redmarshall Road, Bishopton
DESCRIPTION:	Solar farm and energy storage facility together with associated works, equipment and infrastructure (cross boundary application with Stockton Borough Council) (amended site layout plan received 26 August 2022, further amended site layout plan, landscape and green infrastructure plans, addendum to LVIA (cumulative impact assessment) and response to consultees received 29 September 2022 and amended biodiversity management plan received 18 October 2022)
APPLICANT:	Mr Harry Wilder, Darlington Solar 1 Ltd

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

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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: [22/00727/FUL | Solar farm and energy storage facility together with associated works, equipment and infrastructure \(cross boundary application with Stockton Borough Council\) \(amended site layout plan received 26 August 2022, further amended site layout plan, landscape and green infrastructure plans, addendum to LVIA \(cumulative impact assessment\) and response to consultees received 29 September 2022\) | Land South Of Gately Moor Reservoir Redmarshall Road BISHOPTON \(darlington.gov.uk\)](https://www.darlington.gov.uk/22/00727/FUL)

## APPLICATION AND SITE DESCRIPTION

1. This is a cross-boundary application with Stockton Borough Council for the construction of a solar farm consisting of panels, inverters and transformers, with an installed generating capacity of up to 49.99MW, energy storage and associated works, equipment and necessary infrastructure. Planning permission is sought for a temporary period of 40 years and 6 months from the date of first exportation of electricity from the site.
2. The application site straddles the administrative boundaries of the two authorities and duplicate planning applications have been submitted to both authorities for consideration. The majority of the site lies within the administrative boundary of Stockton Borough Council, with the western section of the site located within the administrative area of Darlington Borough Council and eastern portion of the site, including the grid connection corridor and off-site station compounds, located within the administrative area of Stockton Borough Council. The development would connect to the National Grid at the Norton electricity substation.
3. The site extends to approximately 123.37ha and comprises agricultural land across two blocks of land which are bisected by the road linking Whinney Hill and Bishopton, known as Bishopton Back Lane which connects Redmarshall Road, north of the site, to Darlington Back Lane, located south of the site. The western parcel of the site (in Darlington) comprises agricultural fields bordered by hedgerow and further agricultural land beyond. The eastern parcel (in Stockton) is larger and more irregular in shape. The northern boundary of this parcel follows the field boundary and wraps around Gately Moor Reservoir. The eastern boundary lies adjacent to a collection of farm buildings located at High Farm and an area of woodland known as Langton Wood.
4. The site is located approximately 1.1km to the south east of Bishopton and 400m to the west and south west of Redmarshall, in Stockton. There are also a number of isolated properties within the vicinity of the site. Within Darlington these include Sauf Hall Farm which lies approximately 235 metres to the south of the site, Stoney Flatt Farm which is approximately 575m to the west of the site and New Town Farm approximately 485m to the north west. Public footpath no. 7 in the Parish on Bishopton and footpath no. 4 in the Parish of East and West Newbiggen run through the western most parcel of land. These existing rights of way within and abutting the site would be retained as part of the application proposals. The entirety of the site in which the solar panels and supporting infrastructure is located is within Flood Zone 1.
5. The proposed solar farm would consist of solar PV panels placed on a single axis tracker mounting structure with a typical overall height not exceeding 3.1m, depending on existing ground levels which would remain unaltered. The solar panels would move gradually throughout the day, tracking the sun as it moves from east to west. The panels would be arranged in rows, allowing for boundary landscaping, perimeter fencing and access. The panels would be laid in north south rows with spacing between each row to allow for maintenance and to avoid shading. The panels would be installed on metal



framework mounted on piles driven into the ground, avoiding the need for substantive foundations. This would be for a 40 year period and would be removed at the end of the operational period.

6. Plant and other equipment to support the generation of electricity would be located around the site, adjacent to internal tracks to ensure access can be achieved for maintenance purposes. The tracks would have a width of approximately 3.5m and be constructed with crushed aggregate. The energy storage system would be located along the internal access tracks throughout the site of the PV arrays. The ancillary infrastructure, such as central inverter cabinets, switchgear, spares container, energy storage, and energy auxiliary storage container, would be proprietary elements, with a dark finish to be agreed.
7. Underground cabling will be placed around the site leading to an off-site substation at or adjacent to the existing Norton electricity substation. The cable route and proposed substation are located within the administrative area of Stockton Borough Council.
8. For security purposes, the site will be enclosed by an approximately 2m high deer style fence with CCTV cameras mounted on 2.4m high poles. The fence will include small mammal gates to allow native wildlife to enter and exit the site. The infrastructure within the substation areas will be enclosed by a 2.8m high palisade fence.
9. The main access to the solar farm will be taken from the existing farm access from Redmarshall Road to the north. An existing access track will be used to access the solar farm, with a temporary construction compound, provided to the south of the existing agricultural buildings. Additional accesses are proposed to both the eastern and western parcels for construction and on-going maintenance purposes, although it is anticipated that use of these accesses will be significantly less than the main access and may only be required during the construction period to allow vehicles to access between the eastern and western parcels. Access tracks within the site will be kept to a minimum, they will be approximately 3.5m wide with the purpose of facilitating the operation and maintenance of the solar farm.
10. Construction is expected to take place over approximately 8 months, based on the construction of similar developments. Once operational, the facility would be unmanned, being remotely operated and monitored. Vehicles movements associated with the operational period of the solar farm are very low, being mainly associated with the monitoring, upkeep and cleaning of the site. This is anticipated to involve approximately 10 – 20 trips per year in small vans.
11. At the end of the 40-year operational lifespan of the solar farm, the last 6 months would be used to restore the site to its current agricultural use with all equipment and below ground connections removed, with the exception of any equipment situated 1m or more below ground level which will be made safe. Landscape enhancement measures would remain.

## **MAIN PLANNING ISSUES**

15. The main planning issues for consideration are:

- (a) Principle of Development
- (b) Landscape and Visual Impact
- (c) Access and Highway Safety
- (d) Residential Amenity
- (e) Impact on Heritage Assets
- (f) Ecology
- (g) Flooding and Drainage
- (h) Public Rights of Way
- (i) Other matters

## **PLANNING POLICIES**

16. The relevant planning policies for consideration are:

### **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 and Wellbeing  
DC4 Safeguarding Amenity  
DC5 Skills and Training  
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  
IN5 Airport Safety  
IN9 Renewable Energy Infrastructure

### **Tees Valley Joint Minerals and Waste Core Strategy DPD**

MWC4 Safeguarding of Minerals Resources from Sterilisation

### **National Planning Policy Framework, 2021**

### **National Planning Practice Guidance**

## **RESULTS OF TECHNICAL CONSULTATION**

17. No objection in principle has been raised by the Council's Highway Engineer, the Environmental Health Officer or the Lead Local Flood Authority subject to conditions. The

Council's Conservation adviser has confirmed that the proposal will have no significant impact on heritage assets, and Durham County Council Archaeology recommends a condition be attached to secure trial trenching of the site and mitigation. The Council's Ecology adviser raises no objection, subject to a final biodiversity management plan being secured. The Council's Rights of Way Officer is concerned about the impact of the proposed development in the footpath than runs through the site.

18. Northern Gas Network raise no objection to the application and the Health and Safety Executive do not advise against the development, in respect of the high-pressure gas pipe that runs close to the eastern part of the site.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

19. Seven letters of objection have been received which raise the following issues:
  - Loss of Grade 3 agricultural land. Once lost, rarely reinstated
  - Very current need for the UK to produce more of its own food, such solar farms might be better located elsewhere i.e., on large roof slopes and brownfield sites
  - Should permission be granted could a condition requiring the land to revert back to agricultural use once it ceases to operate be applied.
  - Proposal contrary to national and local policy which aims to strictly control development in rural areas
  - Proposed development will cause irreparable damage to wider agricultural landscape
  - Will create other environmental impacts such as light and noise pollution
  - Impact on public rights of way network
  - Impact of construction traffic on local villages and residents and safety of road users, in particular cyclists
  - Road to site is dangerous due to the neglected condition of the running surface major highway improvements and resurfacing should be in place first
  - Statement of Community Involvement not been carried out
  - If approved, developers may consider a contribution towards rural infrastructure in the affected villages
  - No assessment of the cumulative impact of the proposal has been carried out
  - Development will result in significant area of industrialisation in a green wedge and cumulative impact of both developments (this application and application at California Farm, Horseshoe Close, Carlton, Stockton on Tees) considered to have significant adverse impact on character and appearance of the area
  - Impact on residential amenity, individually and cumulatively, in terms of noise and disturbance during construction period
  - Long terms significant adverse impact on visual amenity for residents of Hill House Farm and New Town Farm.
  - No submission of an assessment of alternative sites provided as required by Policy IN9
  - Lack of benefits to local residents to off-set significant impacts

- Installation of security fencing and CCTV monitors will create a prison effect and give the feeling of driving around an industrial estate.
- Planting options will not be sufficient in the short term
- Disruption to area during the construction period
- Already other renewables in the area with nearby wind farms
- Too big for the area and should be reduced
- Impact on the countryside should be minimised by use of screening hedges and reducing size of development to a minimum
- Local area subjected to multiple renewable energy applications over the last few years
- Other solar farms nearby providing same output using less land
- No images provided showing visual impact from Bishopton Back Lane looking north towards Bishopton
- Commodity prices for crops increasing, not just energy
- Massive carbon footprint generated during installation phase
- Potential change by the government to bring Class 3B land into best and most versatile land classification which would bring development into question. Application should be suspended until clarified by government
- Panels susceptible to storm damage due to high prevailing westerly winds. Risk to people and vehicles due to panels breaking loose.

20. Bishopton Parish Council object to the application on the following grounds:

- Major concerns regarding proposed construction traffic route to main site
- Route from Darlington Back Lane to site via Whinney Hill and onto Redmarshall Road is in a state of disrepair.
- Cyclists in danger from oncoming traffic including increased construction traffic
- Major road improvement works required in advance of any construction works
- Planning condition should stipulate maximum speed limit of 30mph for all construction traffic and construction traffic restricted to off-peak hours and not allowed on a weekend due to increased equestrian and cyclist use
- Detailed traffic management plan and road condition survey also required.

21. CPRE Durham has also objected to both the Darlington and Stockton applications, the main points of the objection are summarised below:

- Support the provision of renewable energy applications, but increasingly concerned about the amount of agricultural land now being proposed for solar arrays. Food production becoming increasingly important following Brexit and the war in Ukraine
- The proposed development, if approved, along with other solar farm developments in the Stockton and Durham areas will have a considerable cumulative impact. (Accept that applications within Darlington at Brafferton and Burtree are unlikely to result in a significant cumulative impact)
- Proposal will result in industrialised feel to the area, which is popular with recreational users, particularly cyclists.
- Will impact upon enjoyment of rights of way network

- Land stated to be Grade 3b in Agricultural Land Classification Survey report which is not 'Best and Most Versatile'. Appears however to be productive but if not, may have other value for landscape or biodiversity value
- Species abundance must be considered in addition to a straight gain using the biodiversity metric approach
- Sheep grazing land between the arrays may affect biodiversity
- More details required on restoration scheme
- Consider the application should be assessed against the Energy Institute Guidance on battery storage with regard to fire risk

## **PLANNING ISSUES/ANALYSIS**

### **(a) Principle of Development**

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework, 2021 (NPPF) supports the plan led system providing that planning decisions should be "genuinely plan-led". The Darlington Local Plan (2016 – 2036) has recently been adopted (February 2022) as the development plan for the Borough and all previously saved policies of the Local Plan (1997) and Core Strategy (2011) have now been superseded.
23. There is a raft of policy support at international, national, and local level which aims to combat climate change and to provide energy security. The UK Solar PV Strategy identifies the need for large-scale solar farms on greenfield sites and it is acknowledged that the delivery of a solar farm, amongst other renewable technologies, will have a positive role in tackling climate change and contributing towards a diverse energy mix.
24. Chapter 14 of the NPPF deals with the promotion of renewable energy projects. Paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
25. Paragraph 158 of the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should:
  - a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
  - b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside

these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

26. The NPPF also states that Local Planning Authorities should recognise the economic and other benefits of the best and most versatile agricultural land. Footnote 53 indicates that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The NPPF defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification.
27. Local Plan Policy DC1 also recognises the role that good design plays in helping to reduce carbon emissions and increasing the resilience of development to the effects of climate change and is supportive of proposals for energy efficiency measures and low carbon technologies.
28. Local Plan Policy IN9 is also supportive in principle of renewable and low carbon energy developments across the Borough where proposals are in accordance with the relevant criteria and in determining planning applications for such projects significant weight will be given to the achievement of wider social, economic and environmental objectives. Part B of Policy IN9 does also specifically state that solar power developments will be granted permission if it can be demonstrated that a range of specific considerations have been accounted for. These include siting, area coverage and colour of solar panels; landscape and visual impact; agricultural land quality; glint and glare. Appropriate mitigation and/or compensation measures and monitoring to address any effects identified and considered will be required prior to any development proceeding.
29. The application site is located to the south east of Bishopton and is currently used as farmland. It is not currently proposed or identified for any use within the adopted Local Plan so this proposed form of development within the application will not prejudice any other. It does however involve development of greenfield, agricultural land and although advice contained within the National Planning Practice Guidance (NPPG) encourages the use of land by focussing large scale solar farms on previously developed and non-agricultural land, the development of agricultural land is not precluded.
30. In this instance, the agent has advised that the location of large-scale solar PV arrays is dictated by a number of factors. Firstly, they need to be located where there is an available grid connection which limits the number of brownfield sites that are suitable on this basis. Secondly, in order to provide economies of scale and to make an effective contribution to net-zero carbon energy production, solar PV require a sufficiently large area of land, usually in excess of 40 hectares. An inspection of Darlington Borough Council's Brownfield Register reveals the largest identified brownfield site is a 24.26ha site at Teesside Airport, which is less than a quarter of the site required to accommodate the proposed development. The requirement to demonstrate effective use of land as required by Policy IN9(b)(iv) has therefore been met.

31. An Agricultural Land Classification (ALC) has been carried out on 123.37ha of land. The assessment includes a desktop study and fieldwork analysis with the conclusion that all the soils on the site are Grade 3b. The site is therefore not comprised of best and most versatile (BMV) land. Local Plan Policy IN9(b)(v) (1 and 2) also requires that where solar power developments are proposed on agricultural land it has been demonstrated that the land has been shown to be poorer quality land in preference to higher quality agricultural land; and the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around the solar arrays.
32. Although the development would temporarily remove a significant proportion of land from arable use it would still be available for low intensity grazing. The agent has confirmed that the scheme is designed and will be built to enable grazing of sheep between the PV arrays and that there is an arrangement for this to be managed by the current farmers of the land in co-operation with the operators and in accordance with the biodiversity management plan which has been submitted with the application.
33. Developments of this type are temporary in nature and fully reversible, and as such the expectation is that there would be no adverse effects following decommissioning of the land's capability for agriculture. A planning condition is recommended limiting the development to a period of 40 years and requiring the submission of a scheme for the restoration of the site to its former condition, to be agreed in writing by the Local Planning Authority. The decommissioning of the site at the end of the operational period (40 years) would see the land restored to its former condition and capable of resuming arable production. On this basis, the proposal is considered to comply with Local Plan Policy IN9 and the NPPF in regard to seeking to protect BMV land from development.
34. There is a presumption in favour of sustainable development in Local Plan policies and the NPPF. Local Plan Policy IN9 is supportive of proposals for renewable energy schemes, including solar development, and the proposal is therefore acceptable in principle subject to consideration of site-specific issues relating to landscape and visual amenity, access and highway safety, residential amenity, heritage assets, ecology, flooding and drainage, which are assessed below.

**(b) Landscape and Visual Amenity**

35. A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application which considers the likely landscape and visual effects associated with the proposed development. An addendum to the LVIA which considers the cumulative impacts of the proposed development when assessed against other large scale solar developments within the area has also been submitted. These documents have been considered by Stockton Borough Council's Landscape Officer on behalf of both authorities.
36. The LVIA has been provided including photomontages from 3 key viewpoints in close proximity to the development at Year 1 and Year 15. A full landscape character assessment has been undertaken for the development site. The site is located within the

National Character Area (NCA) 23 'Tees Lowlands' and the assessment considers that impacts upon the NCA will be negligible.

37. The solar farm is located within Landscape Character Area (LCA) 7 – Bishopton Vale within Darlington Borough and within the West Stockton Rural Fringe LCA within Stockton Borough. The proposed substation locations, within the Stockton area, fall within the Thorpe and Billingham Beck LCA. The report assesses that the proposed development would not have any discernible effect with regard to the key defining characteristics of LCA7: Bishopton Vale and, those LCAs within the Stockton area, resulting in negligible effects upon the LCAs beyond the site and its immediate environs. The Landscape Officer agrees with the landscape character assessment.
38. With regard to the impact of the proposals on the site itself, the assessment sets out the majority of the fields within the site would change as they would now accommodate solar arrays, but the underlying character of the fields would remain and would return fully upon decommissioning of the solar farm in the longer terms. The character of the site where the substations are proposed would change, however this is within the Stockton part of the site and is not assessed as part of this application. Notwithstanding this, the proposal has been amended to omit the western most substation in response to the concerns of the Landscape Officer.
39. The applicant has prepared a 'Screened Zone of Theoretical Visibility' (SZTV) as part of their visual assessment. There are three villages within close proximity, Bishopton, Redmarshall and Carlton, as well as numerous farms and scattered residential properties within the rural landscape. A total of 12 viewpoints have been identified for the purpose of the SZTV across the local area at close and medium range to represent local road and footpath users, and residential receptors. These viewpoints are split equally between Stockton and Darlington and demonstrate the visibility of the site and its relationship with the surrounding landscape and vegetation.
40. Photomontages have been provided for 3 of these viewpoints (1, 6 and 8) indicating the views at Year 1 and Year 15 as mitigation planting matures and the results of an alternative hedgerow management regime are realised. The assessment concludes that only viewpoints 1 – 5 will experience any significant effects of major or moderate scale at Year 1, however these effects will reduce in severity for all of these sites with mitigation. Impacts on viewpoint 5 (within Stockton) have been removed following the omission of the western substation option from the application.
41. Users of public rights of way, road and residential receptors have been separately considered within the assessment. Whilst a detailed assessment of views from residential properties was not undertaken, the broad issues have been considered. The assessment notes that for many of the nearby residential receptors, who would be of high sensitivity to the proposals, clear and direct views of the proposed scheme would be restricted. Vegetation around the edges of villages within gardens and field boundaries across the landscape, combined will result in negligible effects at years 1 and 15 for residents of the surrounding villages.



42. The assessment also notes that many properties along Darlington Back Lane are single storey and therefore views of the solar farm will be filtered by intervening vegetation. A number of isolated properties close to the site have also been considered as part of the viewpoint assessments. Within Darlington this includes Sauf Hall Farm, located approximately 230 metres to the south of the site. The assessment considers that views from the property towards the site are currently restricted by vegetation and intervening built form (a large barn) and as a result, the magnitude of change is assessed as low at year 1, reducing to negligible by year 15.
43. Overall, the assessment concludes that with regard to residential receptors that these receptors would predominantly be subject to a low magnitude of change, with the exception of residents of a limited number of properties within the Stockton area. The effects upon residential receptors would vary from major to negligible at year 1, with the effects reducing to moderate to negligible by year 15 with mitigation. At the request of the Landscape Officer, the landscaping mitigation proposals have been updated to further reduce the scale of visual effects on some of these properties.
44. The addendum LVIA concludes that there would be a negligible or minor cumulative adverse effect on local landscape character areas. With regard to the cumulative visual impacts, the assessment considers that there may be cumulative impacts where the application site is visible in conjunction with the two closest sites, which are an operational site at High Meadow Solar Farm and a current undecided application for California Solar Farm to the east of Carlton and Redmarshall, both within the Stockton Borough Council area. The report considers the impacts upon viewpoints, recreational routes, road users, and two of the residential receptors. The Landscape Officer accepts the findings of the addendum LVIA and raises no objection relating to the cumulative impacts of the proposal.
45. The impact on existing site trees and hedgerows is minimal as the site layout allows for roads, solar panels and fencing to be sufficiently offset from existing features. Only small sections of hedgerow removals are required to facilitate site access. The submitted Arboricultural report sets out various tree protection measures during the construction period, with these measures to be secured by planning condition.
46. With regard to landscape mitigation on the site, the following enhancements are proposed. These have been updated in response to the initial comments of the Landscape Officer and would be secured by planning condition:
  - Species rich meadow grassland around the periphery of the site with a grazing mix below the solar panels
  - Special grass mixes to encourage Skylark to the site
  - Infill and replacement of hedgerows, particularly near Delholme Farm (in the Stockton part of the site) and additional hedgerow tree planting

- New sections of hedgerow to line the on-site footpath (no. 7) which crosses the site, and in key locations where the development does not extend to existing established hedgerow field boundaries
  - New tree and woodland planting in areas not utilised for panels.
47. Proposed mitigation to footpath no. 7 which crosses the site from north to south within the westernmost parcel of land, within the Darlington part of the site, will provide a more pleasant route through the development. In addition, planting along the southern boundary of the site has been increased in areas not utilised for planting which once established will provide additional screening to views from properties to the south of the site, and will achieve the effect of reducing the impacts in year 15 as set out in the original LVIA. On the basis of the modifications made to the landscaping mitigation proposals and the submission for the addendum LVIA considering cumulative impact, the Landscape Officer raises no objection.
48. While there would be some harm to the character, quality, and distinctiveness of the local landscape it would be localised and would not be substantial. There would be no harm to important views or features. Given the benefits of the proposal in respect of renewable energy generation this level of harm is not considered to be unacceptable in the balance of considerations. The proposals incorporate mitigation measures to mitigate adverse landscape and visual effects and make some localised contribution to the conservation and enhancement of the local landscape. This is considered in more detail in the Ecology section of this report. The proposal is therefore considered to comply with Local Plan Policies DC1, ENV1, ENV3 and IN9 and the NPPF.

**(c) Access and Highway Safety**

49. The proposal straddles the boundaries of both Stockton (SBC) and Darlington Borough Councils (DBC) both as Local Planning Authority and Highway Authority, with the main site access point located on the southern side of Redmarshall Road under the control of SBC via an existing access point. The site comprises two parcels of land which are bisected east and west by the C37, referred to in the application as Bishopton Back Lane. A cable route along Redmarshall Road and a 13kv/33kV substation to connect to the National Grid at Norton Substation is also proposed.

Access Arrangements

50. The main access for the solar farm is taken from an existing access on Redmarshall Road located approximately 270 metres east of the Borough boundary with Stockton Borough. SBC's Highway Officer considers this appropriate and offers no objection. Two secondary accesses are to be constructed for each parcel of land from Bishopton Back Lane (C37) which falls within DBC's boundary. Access to the off-site substation will either be taken from the existing Norton Substation access, or as a back-up from an existing access circa 650 metres to the east of Norton Substation along Letch Lane, either of which would fall within the SBC highway network and are out with consideration of the Darlington application.

51. The primary highways consideration is therefore to demonstrate that the new accesses located within the jurisdiction of DBC are safe and that the proposed routes to site are appropriate. Speed surveys have been undertaken to establish the actual recorded travelling speed of approaching vehicles to establish 85<sup>th</sup> percentile speed, from which visibility speeds can be calculated in line with Design Manual for Roads and Bridges (DMRB) methodology. Visibility splays based on the calculated stopping site distances for each access on Bishopton Back Lane based on the recorded 85<sup>th</sup> percentile speeds are suitably demonstrated on plan and are considered appropriate given the main road vehicle flows are low and the use of the site accesses is limited even during the peak construction phase. Visibility splays must be maintained for the life of the development to ensure a safe means of access and egress for all vehicles. Both new access points will require technical approval of the Highway Authority under Section 184 of the Highways Act relating to matters such as surfacing material, drainage, setting back of access gates etc. Such matters are also the subject of a planning condition.

#### Traffic Impact and Highway Safety

52. A Transport Statement (TS) has been prepared in support of the application and provides sufficient information to provide a detailed assessment of both traffic impact and any highway safety concerns both during the construction phase and long-term operation of the site post construction.
53. The TS sets out that approximately 1,100 HGV deliveries will be spaced across the 8 month construction period, typically averaging 5 deliveries per day (10 HGV movements). It is unlikely that, even at the most intense period of construction there will be more than 10 deliveries (20 two-way HGV movements) per day. Whilst peak hours are not identified for HGV movements based on this level of traffic generation it would not be easy to soundly evidence a 'severe impact' on the local highway network given an average daily HGVs movement of 20 two-way trips would only equate to around 2 vehicle movements per hour. While the information provided is a best estimate at the present time given that a contractor is yet to be appointed, it is considered necessary to apply a planning condition requiring the submission of a 'Final' CMP.
54. Post construction phase, the site will have very little impact on the local highway network, given that such sites essentially run autonomously and only require periodic visits for inspection/servicing. This is generally done by personnel who arrive on site in light commercial vehicles, so HGV traffic is not expected post construction under ordinary operation conditions. Information contained within the TS states that the frequency of vehicle trips associated with monitoring and upkeep of the site is typically about 10 – 20 times a year. Due to the low number of vehicular movements being made to and from the site during its operational period, the site is unlikely to have any significant impact on the local highway network once operational. Turning facilities must be provided within the site however along with gates placed sufficiently far back from the carriageway edge to ensure that vehicles can pull clear of the highway.

#### Glint and Glare

55. A glint and glare report has been prepared to assess the possible glint and glare effects from the proposed solar photovoltaic (PV) installation. This assessment relates to the possible effects upon multiple receptors including road users in the surrounding area. Impact on residential amenity is assessed elsewhere in this report.
56. The results of the analysis have shown that reflections from the proposed development are geometrically possible towards 22 of the 46 identified road receptors across all three identified roads. However, once existing and proposed screening is taken into consideration no views of the reflective area are possible for all 22 road receptors. No impact is predicted, and no further mitigation is necessary. Mitigation in the form of hedgerow between the proposed development and Bishopton Back Lane which bisects the site. The height of the screening is expected to be 3m and will successfully screen views of the proposed development for road users travelling across receptor 26 (Bishopton Back Road). Overall, no impact is predicted, and no further mitigation is required.

#### Road Safety

57. A review of the past 5 years of Police data reveals 1 minor personal injury collision has occurred within the vicinity of the site within Darlington Borough. This was a 'minor' collision recorded close to the junction of Bishopton Back Lane; however, it is concluded that there is no pattern of accidents in the immediate locality of the site or the study area which suggests a particular road safety issues, which the proposed development would adversely impact.
58. The issue of road safety has been raised by objection, particularly the condition of the local road network and the potential for HGVs using the road network to present a risk to other users of the roads including cyclists, pedestrians and horse riders. The respective Highways Authorities of Stockton Borough Council and Darlington Borough Council have a statutory duty under the Highways Act 1980 to maintain the public highway in a safe and proper condition. While this matter has been brought to the attention of the highway maintenance teams of the respective Highways Authorities, it is not considered appropriate for this matter to be dealt with as part of this planning application where the statutory duties of the Highways Authorities are covered by other primary legislation.
59. The presence of cyclists and horses using the local highway network is true and evident on the many quiet roads around Bishopton, however is expected on roads which offer attractive leisure routes. Non-motorised vehicles and horses have a right to use the public highway and the Highway Code is explicit in the hierarchy of road users where drives of all motorised vehicles have a legal duty to drive safely and considerately. However, the presence of horse riders and cyclists does not offer sufficient justification to prohibit large vehicles from using the local highway network. This is further evidenced when reviewing the most recent 5 year period of recorded accident history in the locality referred to previously.
60. Objections also raise concerns about limited forward visibility on Bishopton Back Lane and how it does not meet currently advised DMRB visibility requirements for a

60mph/national speed limit. This is however entirely typical of a rural road which is historic in nature and was never designed as such. Drivers should therefore adjust their speed, accordingly, as evidenced by the speed survey data submitted as part of the TS. The request that major road improvements are carried out in advance of any construction works is not considered proportionate or reasonable given the limited vehicle movements expected over an 8 month period. Similarly, the request for planning controls to be imposed over HGV access is not considered to be reasonable or enforceable where overriding legislation such as the Road Traffic Act allows for such vehicle movements. The routes to site contained within the Construction Management Plan (CMP) are considered the most logical and appropriate routes given they are chosen to avoid HGV movements through Bishopton as well as other nearby villages within SBC such as Redmarshall and Carlton. HGVs and other large agricultural vehicles make use of this road currently, with give and take being evidence where opposing vehicles would otherwise have some conflict on bends.

61. To avoid traffic routeing through local villages, it is proposed that HGV access to the main solar farm site will be taken from the A66, via Yarm Back Lane, Darlington Back Lane, Bishopton Back Lane and Redmarshall Road. While the Parish wish to impose restrictions of delivery times and HGV movements, it is not considered that this is appropriate or enforceable, given that there is no highway link or junction capacity issue associated with the proposed route through the DBC highway network. Given that the proposed route to site does not pass through Bishopton or other nearby settlements any argument of residential amenity or traffic congestion being made worse by the development is not therefore evidence based.
62. Whilst the development would generate a substantial number of construction traffic movements for the 8 month construction period it would not be unacceptable in this location due to good access and existing highway capacity for this temporary period. Once operational, the site would be automated and would only be attended for monitoring and maintenance purposes. A final construction management plan would be secured by condition, with a further condition requiring details of the site accesses to be approved. It is considered that the proposal has been appropriately assessed through a TS and would not result in harm to the safety of the local highway network and would not cause an unacceptable increase in congestion. Subject to these conditions, it is considered the proposal complies with Local Plan Policies DC1, IN4 and IN9.

**(d) Residential Amenity**

63. Specific considerations in relation to residential amenity are noise, construction activities, contamination, glint and glare and visual amenity which are considered below.

Noise

64. The application has been submitted with a noise assessment which considers how noise from the proposed solar farm operation, including the battery storage facility and proposed substation could impact at the surrounding residential receptors. The assessment concludes that the proposals would generate low levels of noise at

surrounding properties and the Council's Environmental Health Officer agrees with this statement. Assessing the predicted noise levels using a 'worse case' scenario of noise from the facility shows that noise would be commensurate with a No Observed Effects level during the most sensitive night time and early morning periods. Within the DBC administrative area, Sauf Hall Farm would be the most impacted property, however noise levels would be so low that noise mitigation would not be required. On this basis, the Environmental Health Officer advises there is no reason to attach further conditions relating to noise mitigation.

#### Construction Activities

65. A Construction Management Plan (CMP) has been submitted with the application which sets out that the main temporary construction compound for the project will be located in the north east corner of the site at High Farm accessed off Redmarshall Road, within Stockton Borough Council. It is not therefore considered that locating the compound in this location would have any significant impacts for dwellings in Darlington Borough Council. The CMP also sets out that construction works, including the delivery of materials to the site will be restricted to between 08:00 – 18:00 Monday to Friday and between 08:00 – 14:00 on Saturdays. It is recommended that a condition stipulating these hours, and also clarifying that no work should take place on Sundays and Bank Holidays, unless with the prior agreement of the Local Planning Authority, be attached to any approval.
66. Measures to mitigate against potential negative impacts on air quality during the construction phase are also set out in the CMP and these are considered appropriate to minimise dust from the site. Given the type of installations proposed it is not anticipated that any significant piling associated with the construction will take place, and given the distances to the nearest residential properties, vibrations from any site works are not anticipated.
67. Overall the CMP clearly sets out how the impact from construction activities will be managed and provided it is adhered to, impact on dwellings within Darlington Borough Council should therefore be minimal. While ordinarily a condition requiring compliance with the CMP would be attached, as set out in the Access and Highway safety section of this report, the submission of a final construction management plan is required to ensure the full range of construction impacts is assessed once the final contractor is appointed. This is to be secured by a planning condition which requires that the final CMP is submitted for approval prior to the commencement of development and that once approved the construction phase of the development is carried out in accordance with the final CMP.

#### Land Contamination

68. A Phase 1 Desk Top Study and Site Walkover report has been submitted with the application which consulted the historic Ordnance Survey reports of the area and concluded that the majority of the site (and certainly the areas in DBC) has historically been in agricultural use and is unlikely to be impacted by historic land contamination. The assessment was supported by a site walkover which did not show any signs of past

industrial or commercial uses of the site. The site walkover did identify a small amount of waste materials had been deposited within the yard of High Farm, but this area is in SBC.

69. Given the type of development proposed and the history of the site, the Environmental Health Officer agrees with the conclusions of the report that the risk of ground contamination impacting on the development is low and no further site investigations are required should the application be approved. In line with the conclusions of the report, and to ensure that the development can be completed safely, a condition is recommended to deal with any unexpected ground contamination that may be encountered.

#### Glint and Glare

70. A Glint and Glare Study has been submitted with the application which considers the possible effects of glint and glare on aviation activity at Teesside Airport, road users and residential amenity in the surrounding area. The assessment has identified 45 possible dwellings within both Darlington and Stockton Borough Councils areas which could potentially be impacted by the development, of which approximately half are located within the administrative area of Darlington. Of those properties within Darlington the proposed development is expected to have either 'no impact' or 'low impact' in terms of glint and glare either because the effects are not expected to be significant or because screening between the panels and houses would block views of the proposed development. The assessment concludes that mitigation to reduce the impact of glint and glare from the proposals is not required and the Environmental Health Officer concurs with this conclusion.

#### Health Impact

71. As required by Local Plan Policy DC3(g) a Health Impact Assessment has been submitted with the application which sets out how health considerations have informed the design. The HIA has been undertaken in line with government Public Health guidance and is proportionate to the nature of the proposed development.
72. Overall, the proposed development would not result in unacceptable impacts upon the amenities of nearby residential receptors subject to those conditions as outlined. On this basis, the proposal is considered to comply with Local Plan Policies DC1, DC3 and DC4.

#### **(e) Impact on Heritage Assets**

73. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but

rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.

74. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset. Local Plan Policy DC1 is supportive of energy efficiency measures and low carbon technologies where this does not result in harm to the significance of a heritage asset. Policy ENV1 requires proposals affecting all designated heritage assets to give great weight to an assets conservation, conserving those elements which contribute to the assets significance and any contribution made by their setting in a manner appropriate to their significance irrespective of whether any potential harm amount to substantial harm, total loss or less than substantial harm.
75. Part D of Policy ENV1 states that proposals which would remove or harm the significance of a non-designated heritage asset will only be permitted where the benefits are considered to outweigh the harm. Proposals should seek to avoid harm to those features, including setting, which contribute to the significance of a non-designated heritage asset, through measures such as good design.
76. A Heritage Impact Assessment (HIA) has been submitted in support of the application. The HIA identifies the relevant heritage assets affected by the proposed development and considers the impacts on their significance and settings. As such this is considered to meet the requirements of paragraph 194 of the NPPF. There are no designated heritage assets within the site boundary which straddles land within both DBC and SBC administrative boundaries. The proposal lies within the setting of a number of assets and has the potential to impact on the setting of these assets. Within the borough boundary of Darlington, the development has the potential to impact on the setting of the Castle Hill Scheduled Monument and the character of Bishopton Village, including the Bishopton Conservation Area.
77. A geophysical survey and desk-based assessment have also been carried out which revealed no anomalies suggestive of significant archaeological features were recorded in the survey area, however anomalies of both agricultural and undetermined origins and an undetermined classification have been detected which further investigation. A programme of trial trenching therefore is needed to test and confirm the results of the survey, as well as any subsequent mitigation. Given the cross boundary nature of the application discussions have taken place with Durham County Council Archaeology, Tees Archaeology and the archaeological consultant to agree a programme of targeted trial trenching across the site and any resulting mitigation to be secured by planning conditions, the wording of which have been agreed by both Durham County Council Archaeology and Tees Archaeology.
78. The scheduled monument of Castle Hill is located within the 1km study area identified within the HIA. This comprises the Motte and Bailey castle 400m southeast of Bishopton, which is located approximately 790m northwest of the proposed development site. As a scheduled monument the asset is afforded the highest level of significance, with the



NPPF (paras. 199 -202) requiring that great weight be given to its conservation. The monument is situated on relatively low-lying ground at the southern extent of Bishopton village. To the immediate north of the site, a garage and residential properties within Bishopton bound the Scheduled Monument. High Street, which runs south from Bishopton, forms part of the Scheduled Monument's eastern boundary. The remainder of the asset's surroundings are comprised of agricultural land. The existing field boundary systems have already been affected by historic development and changes to agricultural practices as evidenced by historic map regression.

79. The scheduled monument is located approximately 770m northeast of the proposed development site at its nearest point. Inter-visibility between the proposed development site is limited due to the distance between the asset and the site as well as intervening built form, planting and changes to topography. The overall conclusions of the Landscape Visual Impact Assessment (LVIA) are that the identified works would have a minor adverse impact reducing to negligible impacts as the proposed 15 year landscaping scheme matures. Viewpoint 2 within the LVIA considers the resulting view from Footpath No. 7 which runs through the scheduled site and the landscape setting of the monument and concludes that there will be a low magnitude of change to the landscape at year 1 reducing to negligible at year 15.
80. Due to the proposed nature of the development comprising low lying solar panels combined with the topography of the site, intervening built development, and screening it is not considered that the proposed development would adversely impact on the setting or the significance of this historic asset.
81. Bishopton Conservation Area is a linear settlement located on the road between Stockton and Darlington. It is largely inward facing with evidence of surviving mediaeval burghage plots to the rear of historic properties. It is set around the main street (The Green) and contains a number of listed buildings all of a domestic scale aside from the central St Peters Church. The village and conservation area are situated some 690m away from the application site. Due to the distance between the site and the conservation area, combined with changes to topography and screening from existing mature planting, no clear inter-visibility exists between the two. It is therefore considered that the proposed development site does not contribute towards the significance of Bishopton Conservation Area nor will the proposed development, being relatively low lying, adversely impact on the setting of the conservation area nor the listed buildings contained within.
82. The resulting impacts on the setting of built heritage assets, including the scheduled monument and Bishopton Conservation Area are considered to be neutral. The proposals will therefore conserve the setting and significance of neighbouring heritage assets and any resulting impacts would be neutral or negligible and therefore no harm would result, with clear public benefits resulting from the development in respect of sustainable energy generation. In accordance with Local Plan Policy ENV1, subject to the suggested archaeological conditions, it is considered that the proposals will have an acceptable impact on the setting and significance of the designated heritage assets within the vicinity of the development.

**(f) Ecology**

83. A detailed ecological appraisal has been undertaken and is based on the results of a desktop study, Phase 1 habitat survey, wintering bird and breeding bird surveys, and protected species survey work. The assessment confirms that there are no statutory or non-statutory nature conservation designations present within the site and that there will be no direct effect on any statutory or non-statutory designated sites in the surrounding area due to the separation distances. Indirect effects on both statutory and non-statutory designated sites are not anticipated due to the nature of the designations, largely habitats and associated species and lack of any clear connected pathways for effects.
84. The Phase 1 Habitat Survey confirms that the habitats within the site and wider survey area predominantly comprise of arable fields bordered by a combination of fences and hedgerows. Two fields to the south west of the site comprised grazed improved grassland at the time of the habitat surveys and a small field located to the north east comprised poor semi-improved grassland. A ditch which largely bisects the site north to south, with sections of wet and dry ditch are also present along sections of the site boundary.
85. The proposed development will mostly affect intensively managed arable land and improved grassland fields considered to be of low ecological value. The solar panel array layout has largely been designed to avoid field boundary features such as hedgerows trees and ditches within and immediately surrounding the site which provide the greatest ecological interest. Direct loss of habitat is therefore considered to be small and will comprise entirely low ecological value arable land and improved grassland, which is widely present in the local landscape.
86. Effects during construction relate to physical disturbance, primarily comprising temporary compaction and soil disturbance from plant machinery and vehicles in addition to the loss of low value arable and improved grassland. This will be temporary and for the operational lifetime of the development and the arable land and improved grassland will be replaced by more species-diverse grassland habitats of higher value to a range of wildlife. The solar farm will not be lit once constructed, maintaining dark corridors along boundary habitats included woodland edges and hedgerows.
87. A series of Wintering Bird Surveys have been undertaken and the Ecological Assessment concludes that the site is not considered to represent important habitat for over-wintering species.
88. The development has the potential for the temporary displacement of foraging and nesting birds. The majority of breeding birds within the site are associated with field boundary vegetation, including hedgerows and trees. The solar panel array layout and construction process has been designed to minimise impact on hedgerows and trees with only a few short sections requiring removal. All retained hedgerows and trees are to be

protected during construction. Birds nesting on open ground such as skylark may be temporarily displaced if construction takes place during the breeding season, however in the context of comparable habitats locally, the area lost will be small. Ground nesting bird species may potentially nest between rows of panels, so permanent displacement is unlikely.

89. Overall, the development will retain current habitat features and provide additional benefits for roosting and foraging bats. Other than a possible disused badger sett on the site there is no other evidence of current badger activity and construction activities are unlikely to result in disturbance. A pre-construction survey will be undertaken prior to works commencing on site to check for any newly constructed setts in and surrounding the site.
90. On site ditches were considered to provide poor habitat suitability for otter and water vole, and no evidence was found of either species during the habitat survey. Upon completion, the ditches and bankside habitat will remain available for water voles and otters to utilise should they colonise the area in future. Given the mitigation measures proposed, the land of ponds within the site and poor suitability of waterbodies in the wider area, the proposed development is unlikely to adversely affect any local population of amphibian, including great crested newts, or common and widespread reptile species.
91. The site and surrounding area may potentially support notable species including brown hare and western hedgehog. The loss of a relatively small area of arable land and grazed grassland is not considered to affect local populations of these species, especially when considered in the context of the extensive availability of more suitable habitats in the wider area and the proposed creation of more favourable habitats as part of the development.
92. A Biodiversity Management Plan (BMP) has been submitted with the application which has been informed by the Ecological Assessment and associated surveys. The BMP sets out the proposed habitat protection, mitigation and enhancement measures for the proposed development as well as detailing the ecological management and monitoring practices to be adopted with the aim of developing and maintaining wildlife habitat to provide a biodiversity net gain for the lifetime of the development (40 years). The BMP has been amended during the course of the application in response to the comments of the Council's Ecology adviser.
93. Habitat enhancement measures proposed for the site include the planting of a grassland sward beneath and surrounding the panels and within the perimeter fencing replacing what was largely arable fields, a species and structurally diverse meadow grassland around the margins of the site; native tree and hedgerow planting, including infilling of existing hedge gaps; the creation of a skylark mitigation area; and, inclusion of bird nesting boxes, bat roost boxes and insect boxes/hotels. The BMP would be a live document and be reviewed and revised (where applicable) before and during construction, as well as during the operational stage of the development to ensure it remains fit for purpose.

94. The biodiversity impacts associated with the proposed development have been assessed using the Natural England/DEFRA Biodiversity metric. The calculations show that the proposed development will result in a biodiversity net gain of 71.13% in habitat units and 26.25% in hedgerow units. Additionally, the provision of bird and bat boxes also provide biodiversity benefit which is not included in the net gain calculation process.
95. The Council's Ecology adviser is satisfied that the amended BMP provides sufficient detail to be confident that the target habitats and enhancements can be met. As a live document further details of target habitat descriptions, monitoring protocols, and finalisation of species mixes, and long-term management of the grasslands are amongst the items that will need refining at a later date. The production of a final agreed management plan and its implementation would be secured by planning condition to secure the delivery of biodiversity net gain improvements over the lifetime of the development. On this basis, the proposal is considered to comply with Local Plan Policies ENV7 and ENV8 and the NPPF with regard to biodiversity net gain.

**(g) Flooding and Drainage**

96. The application is accompanied by a flood risk assessment (FRA) which identifies that the solar farm and substation sites fall within Flood Zone 1, which is fully in accordance with the aim of the sequential approach set out in the NPPF and echoed in Darlington Local Plan Policy DC2, which is to steer new development to areas at the lowest probability of flooding in Zone 1. In relation to Flood Risk Vulnerability and Flood Zone 'Compatibility' the planning practice guidance to the NPPF advises that all uses of land are appropriate in Flood Zone 1.
97. The below ground cable route crosses an area of Flood Zone 2 associated with Letch Beck in the village of Carlton, however this lies within the SBC part of the wider application site. Notwithstanding this, the cable route will be located entirely below ground and resilient to flooding and would not impact upon flood risk elsewhere. The cable route is classified as essential infrastructure and compatible with respect to flood risk and is appropriate in Flood Zone 2.
98. The FRA has considered the potential consequences of flooding from all other sources, which include directly from rainfall and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes, and other artificial sources. The majority of the site lies with a 'very low' risk of surface water flooding with areas of elevated risk present on the site and subject to 'low' risk (between 0.1% and 1% chance of flooding), 'medium' risk (between 1% and 3.3% chance of flooding) and 'high' risk (greater than 3.3% chance of flooding). The small, isolated areas of elevated risk are associated with low points on the site where surface water runoff could collect and are related to localised low points.
99. The site layout has been devised to locate all control equipment in areas of 'very low' surface water flood risk. Only solar arrays, security fencing and access tracks extend into

areas of elevated surface water flood risk. The proposed solar PV panels will be raised at least 1m above ground level and above the surface water level by at least 0.1m on metal frames (arrays). The solar arrays would not therefore be vulnerable to the shallow depths and flow of surface water and would be above the highest risk and level of surface water accumulation. The panel supports and security fence will be resistant to shallow flood depths and will be securely anchored to the ground. The development extending into areas of elevated surface water flood risk does not affect its ability to continue to operate safely and does not increase flood risk elsewhere.

100. With respect to surface water drainage, rainfall falling onto the PV panels will run off directly to the ground beneath the panels and infiltrate into the ground at the same rate as it does in the site's existing greenfield state. Existing drainage features will be retained, and the site will remain vegetated through construction and operation of the solar farm to prevent soil erosion. The amount of impermeable cover as a result of the proposed development amounts to only 0.27% of the total site area, which equates to a minimal increase in the Mean Annual Flood ( $Q_{bar}$ ) of just 0.54% compared to the existing greenfield runoff rate.
101. A sustainable drainage system, involving the implementation of SuDS in the form of interception swales, is proposed for managing surface water runoff on the site. Interception swales are proposed at the low points of the application site to intercept extreme flows which may already run offsite. The swales do not form part of a formal drainage scheme for the development but are provided as a form of 'betterment'. The volume of storage provided within the proposed swales is greater than the additional runoff generated as a result of the extreme 1 in 100 year storm event, including an allowance for climate change.
102. The FRA concludes that the provision of swales would lead to an overall reduction in surface water flow rates from the site and mitigate any increase in run-off due to the minor reduction in the overall permeable area of the site. The proposed drainage strategy would ensure that the development would therefore have a negligible impact upon site drainage, and surface water arising from the developed site would mimic the surface water flows arising from the site prior to the proposed development. The natural drainage regime would be retained except in the extreme storm event when a benefit is achieved by reducing the extreme storm run-off flows.
103. Overall, future users of the development would remain appropriately safe throughout the lifetime of the proposed development, and subject to planning conditions to secure the implementation, maintenance and management of a sustainable surface water drainage scheme as outlined, the development will not increase flood risk elsewhere and will reduce flood risk overall.
104. Stockton Borough Council acting as technical advisors to Darlington Borough Council as Lead Local Flood Authority advise that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area and raise no

objection subject to planning conditions as detailed above. On this basis, the proposal is considered to comply with Policy DC3 and the NPPF in regard to flood risk.

**(h) Public Rights of Way**

105. Within Darlington, Public Footpath No. 7 in the Parish of Bishopton passes in a north – south direction through the western parcel of the application site and would run through the proposed solar farm for a distance of approximately 420 metres in this location.
106. The submitted plans show that there would be a distance of approximately 10m between the panels either side of the right of way. The panels would be enclosed either side of the footpath by a 2m high deer style fence to prevent users of the right of way entering into the development, in front of which a proposed mixed native hedgerow and hedgerow trees will be planted as part of the landscape mitigation proposals and to screen views of the development from the footpath. A width of approximately 3m would be maintained along the length of the footpath as it passes through the site. An access track would also pass over the right of way which would be used for periodic maintenance of the site, which is likely to result in between 10 – 20 visits annually. There would also be some impact to the footpath during the construction period, which is considered and assessed in the submitted construction management plan.
107. The Council's Rights of Way Officer is concerned that the enjoyment of users of the footpath would be adversely affected by the proposed development, in terms of users feeling enclosed by the development and also in respect of noise and glint and glare and is also concerned that the footpath has not been identified as a sensitive receptor in the assessment of these matters.
108. It is acknowledged that the experience of users of the right of way will change for a short section as it passes through the development. This will allow close range views of the development and reduce the sense of openness and the availability of countryside views from the right of way for a section of approximately 420m. As set out elsewhere in this report, the impact of the development on footpath no. 7 has been assessed in the submitted LVIA which concludes that while there would be a notable change in year 1, with mitigation, this would reduce to low in Year 15 being bounded by hedgerow, not untypical of many other footpaths. Enhanced biodiversity provision in and around the site will also be a positive experience to users of the path over time.
109. An inverter station and two battery storage stations would be sited close to the eastern side of footpath no. 7 as it passes through the central part of this part of the site. It is also proposed to use tracking solar panels with one motor attached to each array of the panels. The inverters and associated equipment would be housed within steel containers which would ensure noise from the plant operating internally would not be clearly audible outside. Likewise, the batteries for the energy storage would also be housed within containers, thus minimising any noise break out. Cooling fans and vents attached to the units would however be audible and would be the principal source of noise

externally. Periodic movement of the motors on the arrays as the panels move would also be audible for a few seconds at a time.

110. The noise assessment submitted with the application sets out that noise from these sources is based upon the plant operating at full capacity, which would generally occur during periods of hot weather and at peak generation during the daytime periods. Overall, the inverter stations and battery storage stations have been sited to minimise impact on nearby residential properties and the noise assessment concludes, as has been previously set out in this report, that noise levels at surrounding properties would be so low that noise mitigation would not be required.
111. While there may be noise impact from the cooling fans and the motorised arrays which would be audible to users of footpath 7, this would be limited to a short section of the footpath immediately adjacent to the inverter and battery storage stations. Given this affects only a short section of the footpath as users pass through the development, it is not considered that this would be so unacceptable as to warrant refusal of the application on this basis. Similarly, users are unlikely to be adversely impacted by glint and glare given that screening between the panels and the footpath would block views of the proposed development over time.
112. While there will be some impact on the footpath from the proposed development this will be mitigated by landscape planting proposals in terms of visual impact and glint and glare. Noise impacts will also be of limited impact and duration due to the transient way in which the footpath is used over the relatively short distance it will pass through the development site. Given the low level of maintenance visits proposed, it is not considered that the proposed access track will adversely impact on users of the footpath, subject to a condition requiring any access gates to open inwards only. Overall, the proposal is considered to comply with Local Plan Policies DC4 and IN9(b).

**(i) Other matters**

113. A number of other matters have been raised in response to the consultation and publicity exercise, as follows:

Statement of Community Involvement

114. A Statement of Community Involvement (SCI) has been submitted with the application. The application sets out that a 3 week community consultation exercise was undertaken during March/April 2022. The consultation material comprised a leaflet and bespoke website which was distributed to 695 addresses within an approximately 3km radius of the site. A total of 46 responses were received, with 69% of respondents fully supporting or broadly supporting the proposal. Concerns raised about the proposal were varied but included loss of agricultural land, landscape and visual impacts, the scale of the proposal, proximity to residential dwellings, effects on ecology and wildlife, and impact on local highways particularly during the construction phase. The SCI sets out the applicant's response to the points raised during this process.

115. Some of the objections raised refer to the adequacy of the community consultation carried out and that some people are unaware of the proposals. The NPPF recognises the importance of early engagement with the community and pre-application discussions. The Council's Statement of Community Involvement Part 2 (SCI) also sets out when pre-application community and stakeholders engagement should be carried out and as a minimum what this should involve. This is however guidance, and an application cannot be refused because community engagement has either not been carried out at all or has not been carried out in accordance with the guidance. In this instance however the submitted Statement of Community Involvement is considered to meet the requirements of the Council's guidance.
116. In addition, the application itself has been publicised in accordance with the requirements of Article 15 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 by way of a press advert, site notices around the site and by way of letters to a total of 21 properties within the Darlington administrative area.

#### Battery Storage Safety

117. The issue of battery storage safety has also been raised by CPRE Durham in their objection to the application, with regard to the potential for fire risk arising from such systems which in their view should be assessed against the Energy Institute Guidance on Battery Storage.
118. Battery Energy Storage Systems (BESS) provide a means of storing off-peak energy production for release to the Grid in peak demand periods, or storing power from the Grid in periods of high supply but low demand. Storage is recognised as a necessary part in achieving net zero and providing flexibility to the renewable energy system. In this instance there has been no objection from the Health and Safety Executive (HSE) nor the Environmental Health Officer. The NPPF is clear that the planning system should not duplicate other regimes in place to control such matters (paragraph 188).
119. The agent has advised that it is in the developers and operator's interests to ensure the highest safety standards are in place for their works and contractors, as well as to protect valuable equipment and avoid any disruption in operation. All equipment and processes employed during the construction and operational phases of the development will be certified and regulated for use in the UK and conform to relevant industry standards. Furthermore, as the electricity will be supplying the National Grid there will be strict requirements with regard to installation and connectivity.
120. The BESS will be located in purpose-built containers. Fire risk within the BESS container is managed in a number of ways, including software and hardware fail safes and fire suppression systems. Overall, these measures are considered to be sufficient to ensure any associated risks can be managed and mitigated through the appropriate control regimes that exist alongside the planning system which the NPPF makes clear should not be duplicated. In this instance, given the scale of the proposed development and the



proximity of the battery storage containers to local populations, it is not considered that this is a matter that carries significant weight in the overall planning balance.

#### Benefits to Local Community

121. A number of objections refer to a lack of benefits to the local community to off-set the impact of the proposed development. The agent has confirmed that a community benefit fund of £50,000 is to be made available to local organisations, however this fund does not form part of the planning application and is not regarded as a material planning consideration that carries any weight in the determination of the application.

### **THE PUBLIC SECTOR EQUALITY DUTY**

122. 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. There is no overt reason why the proposed development would prejudice anyone with the protected characteristics as described above.

### **CONCLUSION AND RECOMMENDATION**

123. It is clear that the development of renewable energy is in principle in the public interest and is considered a benefit in those terms. The proposed development, with associated energy storage, will generate and store a significant amount of electricity from renewable sources and result in a reduction of approximately 25,370 tonnes of CO<sub>2</sub> emissions annually compared to generating the same amount of electricity using coal. This represents a significant contribution to the legally binding national and international requirements and associated targets to increase renewable energy generation and reduce CO<sub>2</sub> emissions. The proposal would also provide a range of other benefits including a significant contribution to local employment and the economy more generally. Additional benefits of the scheme include biodiversity and landscape improvements to the site. The development would not result in the loss of best and most versatile agricultural land and when decommissioned, the site can revert to its former use.
124. There would be some localised harm to the character, quality, and distinctiveness of the local landscape, although this would not be substantial, and these impacts have been mitigated to an acceptable level. Mitigation measures proposed for biodiversity would result in a significant biodiversity net gain which would be secured for the lifetime of the development by planning condition and are considered appropriate to mitigate against any ecological impacts. Consideration has also been given to the impact of the proposals upon highway safety, residential amenity, heritage assets, flooding and drainage, and public rights of way and, subject to appropriate conditions, these impacts are considered to be acceptable.

125. The proposed development is considered to broadly accord with the relevant policies of the Darlington Local Plan (2016 – 2036) and relevant sections of the NPPF. On balance however, the considerable environmental and public benefits of the scheme for the generation of renewable energy are considered to outweigh any harmful impacts of the development. According, it is recommended:

**THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. A3 (Standard 3 year time limit)
2. The permission hereby granted is for the development to be retained for a period of not more than 40 years from the date when electricity is first exported to the electricity grid (First Export Date) or in the event that electricity is not exported to the electricity grid from the date that works first commenced on site. Written confirmation of the First Export Date shall be submitted to the Local Planning Authority within one month of the First Export Date. The site shall be decommissioned and all buildings, structures and infrastructure works hereby approved shall be removed and the land restored to its former condition in accordance with details to be submitted to and approved by the Local Planning Authority in writing. The approved details shall then be implemented in full within 6 months of approval of those details.

REASON - The proposed development has a limited lifetime and when that point is reached the land should be restored to its previous character and appearance and to productive agricultural use.

3. In the event that the solar farm is inoperative for a period of 6 months or longer, a scheme for the restoration of the site, including the removal of all buildings, structures and infrastructure works, dismantling and removal of all elements, shall be submitted to and approved in writing by the Local Planning Authority not later than 12 months following the last export of electricity from the site. The approved details shall then be implemented in full within 6 months of approval of those details or such other period as may be approved in writing by the Local Planning Authority.

REASON - The proposed development has a limited lifetime and when that point is reached the land should be restored to its previous character and appearance and to productive agricultural use.

4. The development hereby approved shall be carried out in accordance with the following plans and documents:
  - (a) Site location plan, drawing number P20-0234\_03F dated 8.6.2022
  - (b) Site layout plan, drawing number P20-0234\_04O dated 28.9.2022
  - (c) Landscape mitigation proposals, drawing number P20-0234\_12F dated 28.9.2022
  - (d) Green infrastructure plan, drawing number P20-0234\_19A dated 28.9.2022
  - (e) Inverter station elevations, drawing number GMSF\_CS21GB001\_01 dated 16.5.2022
  - (f) Panel elevations bifacial, drawing number GMSF\_CS21GB001\_02 dated 16.5.2022

- (g) Customer Station Elevation, drawing number GMSF\_CS21GB001\_04 dated 16.5.2022
- (h) Cable Trench Cross Section, drawing number GMSF\_CS21GB001\_05 dated 16.5.2022
- (i) Fence and Gates, drawing number GMSF\_CS21GB001\_06 dated 16.5.2022
- (j) Spare Parts Building Details, drawing number GMSF\_CS21GB001\_07 dated 16.5.2022
- (k) Battery Storage Elevations, drawing number GMSF\_CS21GB001\_08 dated 16.5.2022
- (l) Meteo Station Details, drawing number GMSF\_CS21GB001\_09 dated 16.5.2022
- (m) CCTV Pole Details, drawing number GMSF\_CS21GB001\_10 dated 16.5.2022
- (n) Road Cross Section, drawing number GMSF\_CS21GB001\_11 dated 16.5.2022

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

5. Prior to the commencement of the development hereby permitted a final biodiversity management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out and operated in full accordance with the measures contained within the final biodiversity management plan, including provision for future monitoring, reporting and any necessary amendment of management measures, or such other alternative measures which may subsequently be approved in writing by the Local Planning Authority for the lifetime of the development hereby approved.

REASON – To ensure that any impacts on biodiversity and ecology are mitigated and that appropriate enhancement works, and biodiversity net gain are secured.

6. Prior to the commencement of the development hereby approved, pre-construction survey checks shall be undertaken for the presence of badgers and the results of the survey and any necessary mitigation measures required shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved mitigation measures shall be implemented in full.

REASON - To ensure any impacts on protected species can be appropriately mitigated.

7. Prior to the commencement of the development precise details of the colours and finishes for all buildings, fixed plant and machinery shall be agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – In the interest of visual amenity

8. Tree protection measures outlined in the Arboricultural Impact Assessment shall be implemented prior to any equipment, machinery or materials being brought to site for use in the development and be maintained until all the equipment, machinery or surplus materials connected with the development have been removed from the site. This shall include:

- Permanent perimeter site deer fencing which will provide protection to site trees and hedgerows during construction; and
- Temporary site tree protection fencing centrally within the site and described in paragraph 6.2 of the Arboricultural Impact Assessment

REASON – To safeguard and enhance the character and amenity of the site, and to avoid any reversible damage to retained trees.

9. No development shall commence until full details of soft landscaping has been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations, inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for tree pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of the development and completed to the satisfaction of the Local Planning Authority.

REASON – To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhanced biodiversity.

10. Prior to the commencement of the development, a Construction Management Plan (CMP) shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include a dust action plan, the proposed hours of construction, vehicle and pedestrian routes, type and frequency of construction/staff vehicles, road maintenance, and signage, wheel washing plant, methodology of vehicle movements between the compound and various site accesses, details of operation of banksmen and on-site parking arrangements. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety.

11. Prior to the commencement of the development, precise detail of access(es) shall be submitted to and approved in writing. Details shall include visibility splays, details of cut off drainage to prevent the discharge of surface water onto the highway, location of gates, and turning facilities for the long-term operation of the site. The first 12m of each access/internal road shall be constructed in a sealed material (i.e., not loose gravel).

REASON – In the interests of highway safety.

12. 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 a Sunday or

Bank/Public Holidays without the prior written permission of the Local Planning Authority.

REASON – In the interest of residential amenity.

13. Any unexpected ground contamination identified during subsequent construction/demolition works shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority. The development must be completed in accordance with any further agreed amended specification of works.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

14. The development hereby approved shall not be commenced on site until a scheme for the implementation, maintenance and management of a sustainable surface water drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The scheme shall include, but not be restricted to providing, the following details:
- i. Detailed design of the surface water management system (for each phase of the development)
  - ii. A build programme and timetable for the provision of the critical surface water drainage infrastructure
  - iii. A management plan detailing how surface water runoff from the site will be managed during the construction phase
  - iv. Details of adoption responsibilities.

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to the site or surrounding area, in accordance Darlington Local Plan Policy DC2 and the National Planning Policy Framework, 2021.

15. The development permitted by this planning permission shall only be carried out in accordance with the approved Gately Moor Solar Farm Flood Risk Assessment, Issue 01 dated 17<sup>th</sup> June 2022.

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

16. The development hereby approved shall not be brought into use until:

- i. Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said development
- ii. The drawings of all SUDS features have been submitted and approved in writing by the Local Planning Authority. The drawings should highlight all site levels, including the 30 year and 100 year +cc flood levels and confirmation of storage capacity
- iii. A management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority. This should include the funding arrangements and cover the lifetime of the development.

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

17. No development shall commence until a Strategy for Archaeological Mitigation, including a phased programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological mitigation will then be carried out in accordance with the approved strategy.

REASON – To safeguard any archaeological interest in the site and to comply with Part 16 of the National Planning Policy Framework (NPPF). This is required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

18. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

REASON - To safeguard any archaeological interest in the site and to comply with Part 16 of the National Planning Policy Framework (NPPF).

19. No gates shall be designed to open out from the access track which bisects Footpath No. 7 in the western part of the application site over the footpath.

REASON - To safeguard the amenities of users of the public right of way.

20. Notwithstanding the submitted details should any external lighting be required at either the construction or operational phases of the development, details of such lighting including measures to prevent light spillage, shall be submitted to and approved in writing by the Local Planning Authority. Any such external lighting as approved shall be

installed in accordance with the approved details and shall be retained as such for the lifetime of the development.

REASON – To minimise possible light pollution in the interests of visual and residential amenity

## **INFORMATIVES**

### **Highway Informatives**

The developer is required to enter into an agreement under Section 59 of the Highways Act 1980 prior to commencement of the works on site where Darlington Borough Council, acting as the Highway Authority, wish to safeguard the public highway from damage caused by any construction traffic serving the development. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mr Steve Pryke 01325 406663) to discuss the matter.

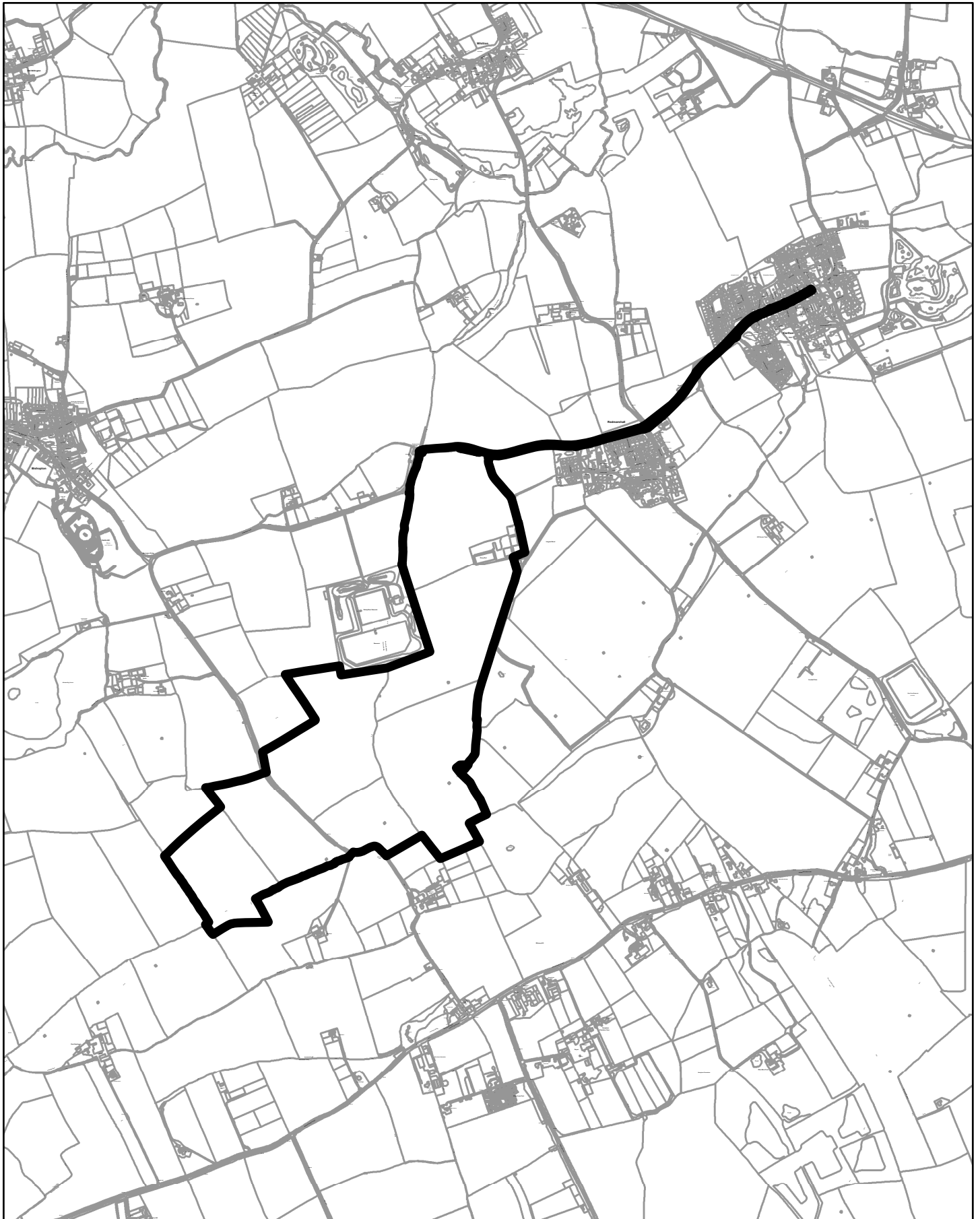
The applicant is advised that works are required within the public highway to construct a new vehicle crossing. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mrs Lisa Woods 01325 406702) to arrange for the works to be carried out or to obtain agreement under Section 184 of the Highways Act 1980 to execute the works.

### **Public Rights of Way Informative**

Footpath No. 7 in the Parish of Bishopton shall remain open and unobstructed at all times during the construction period of the development.

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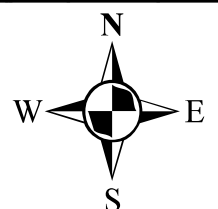


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DARLINGTON BOROUGH COUNCIL

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## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

**COMMITTEE DATE: 9 November 2022**

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<b>APPLICATION REF. NO:</b>	22/00213/FUL
<b>STATUTORY DECISION DATE:</b>	22 June 2022 (Extension of time agreed 18 November 2022)
<b>WARD/PARISH:</b>	HEIGHINGTON AND CONISCLIFFE
<b>LOCATION:</b>	Land North of Burtree Lane, Burtree Lane, Darlington
<b>DESCRIPTION:</b>	Installation of a solar farm comprising of ground mounted bifacial solar panels, access tracks, string inverters, transformers, substation, storage containers, underground cables and conduits, perimeter fence, temporary construction compound and associated infrastructure and planting scheme (Supplementary Heritage Statement received 1 June 2022, amended site layout plan received 22 June 2022, additional Biodiversity Management Plan received 19 July 2022, amended site layout plan, mitigation plans and biodiversity management plan received 11 October 2022, biodiversity metric received 12 October 2022 and amended biodiversity management plan received 14 October 2022)
<b>APPLICANT:</b>	Aura Power Developments Limited

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO SECTION 106 AGREEMENT AND CONDITIONS** (see details below)

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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: [22/00213/FUL | Installation of a solar farm comprising of ground mounted bifacial solar panels, access tracks, string inverters, transformers, substation, storage containers,](#)

underground cables and conduits, perimeter fence, temporary construction compound and associated infrastructure and planting scheme (Supplementary Heritage Statement received 1 June 2022, amended site layout plan received 22 June 2022, additional Biodiversity Management Plan received 19 July 2022, amended site layout plan, mitigation plans and biodiversity management plan received 11 October 2022, biodiversity metric received 12 October 2022 and amended biodiversity management plan received 14 October 2022) | Land North Of Burtree Lane Burtree Lane DARLINGTON

## APPLICATION AND SITE DESCRIPTION

1. This is an application for the installation of a solar farm comprising of ground mounted bifacial solar panels, access tracks, string inverters, transformers, substation, storage containers, underground cables and conduits, perimeter fence, temporary construction compound and associated infrastructure. The proposed development would have a generating capacity of up to 49.99MW at the point of connection. Planning permission is sought for a temporary period of 40 years after which the site would be decommissioned and returned to its former use.
2. The application site extends to approximately 62 hectares of agricultural land located to the north of Burtree Lane, immediately to the north west of properties known as Little Whessoe and Whessoeville. The A1(M) forms the western boundary of the site and the Darlington to Bishop Auckland railway line forms the site's eastern boundary. Footpath No. 6 in the Parish of Whessoe runs from Burtree Lane to the south of the application site, through the group of buildings at Little Whessoe and heads in a northerly direction along part of the eastern site boundary before heading in an easterly direction away from the site towards Coatham Grange. The site is predominantly located within Flood Zone 1, with the exception of a small area to the north which is located in Flood Zone 2 and 3.
3. There are a number of dispersed dwellings and farms surrounding the site, with the nearest property being the landowner's property at Little Whessoe, adjacent to the south-east corner of the site boundary. Other nearby properties include Burtree Barns and Burtree Grange approximately 137m and 233m to the south west of the site respectively, Quess How and Whessoe Grange Farm approximately 235m and 360m to the south respectively, and Coatham Grange which lies approximately 450m to the north east of the site.
4. The proposed development will comprise ground mounted bi-facial solar panels in rows that will run in an east/west orientation to allow the panels to tilt south to face the sun. The panels have the capability to generate electricity from light received to both the front and back of the panel and the proposed development would generate power during daylight hours, not just during times of direct sunlight, throughout the year. The solar panels will be mounted at a maximum height of 3.5m with a minimum clearance of 0.8m from the ground to allow sheep to graze beneath the panels. The space between frames is provided for maintenance access and to avoid shading from neighbouring panels. The frames are typically constructed of aluminium and fixed to the ground with ground

anchors. This would be for a 40 year period and would be removed at the end of the operational period.

5. Plant and other equipment to support the generation of electricity would be located around the site. A substation building will also be constructed within a connection compound located towards the south of the site, from which onward connection will be made from the site to the wider network, which is likely to the Darlington North Substation, located approximately 950m south east of the site. This connection will be the responsibility of the Distribution Network Operator (Northern Powergrid) and is not considered as part of this application.
6. The site will be enclosed by a security fence which will be a stock-proof post and wire fence approximately 2m in height. The fence design includes a 150mm gap at the base which will allow small mammals to transit across the site. The majority of the fence will be screened by new or existing hedgerows. No lighting or CCTV is proposed within the solar farm.
7. Access to the site would be via an existing field entrance off Burtree Lane to the south of the site. A construction compound will be formed adjacent to the southern boundary of the site. It is proposed to use existing farm tracks and field entrances within the site, which will be upgraded where necessary to allow access to the arrays, although a number of new access tracks are also proposed. The tracks will typically have a crushed stone running surface and will be approximately 4m wide. A temporary construction compound will be created adjacent to the southern boundary. The construction period is anticipated to take 4 months.
8. Once operational, the facility would be unmanned, being remotely monitored and operated. The site will be checked regularly, and periodic cleaning of the panels will take place. During normal operations it is expected that personnel will visit the site once a month in a light van or four-wheel drive vehicle.
9. At the end of the 40 year period the solar farm would be decommissioned, which would involve the removal of all above ground elements and restoration of the site to its current condition. Access tracks and ancillary infrastructure may remain in place following decommissioning if required by the landowner.

## **MAIN PLANNING ISSUES**

10. The main planning issues for consideration are:
  - (a) Principle of Development
  - (b) Landscape and Visual Impact
  - (c) Access and Highway Safety
  - (d) Residential Amenity
  - (e) Impact on Heritage Assets
  - (f) Ecology

- (g) Flooding and Drainage
- (h) Public Rights of Way
- (i) Other matters

## **PLANNING POLICIES**

11. The relevant planning policies for consideration are:

### **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 and Wellbeing  
DC4 Safeguarding Amenity  
DC5 Skills and Training  
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  
IN5 Airport Safety  
IN9 Renewable Energy Infrastructure

### **National Planning Policy Framework, 2021**

### **National Planning Practice Guidance**

## **RESULTS OF TECHNICAL CONSULTATION**

12. No objection in principle has been raised by the Council's Highway Engineer or the Environmental Health Officer subject to conditions. The LLFA and Environment Agency raise no objection. National Highways, Network Rail and British Transport Police also raise no objection subject to conditions. Durham County Council Archaeology Section raises no objection subject to conditions to secure a programme of archaeological investigation and mitigation. The Council's Ecology adviser raises no objection, subject to a final biodiversity management plan being secured.
13. The Council's Rights of Way Officer is supportive of amended proposals to omit panels from Block 8, but considers further amendments should be undertaken to Blocks 1, 2 and 3 areas. The Heritage Action Zone Project Officer also considers that the proposal negatively affects the S&DR, and its setting and mitigation is required.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

14. One letter of support has been received which raises the following issues:
  - Important that UK creates a diversified portfolio of power generation options
  - Cumulative effect of such schemes produce downwards pressure on gas prices
  - Converting old landfill site into power generation for 21<sup>st</sup> century is ideal choice for clean energy generation
15. Whessoe Parish Council support the application.
16. Friends of the Stockton and Darlington Railway object to the application for the following reasons:
  - Concerned about harmful impact of proposed development on setting of the Stockton and Darlington Railway and setting of recently Grade II listed overbridge at Whessoeville and Myers Flat embankment and Coatham Grange accommodation bridge when seen from public footpath and A1(M)
  - It is proposed to designate the S&DR as a conservation area affording its features the status of designated heritage assets.
  - Application identifies number of distant viewpoints but does not assess impact from A1(M)
  - Application claims that passengers in railway will experience transient exposure to solar farm when crossing embankment, but must be assessed in context of diminishing rural gap between Darlington and Newton Aycliffe
  - Acknowledge benefits of providing renewable energy but believe scale and location causes harm to setting of designated and non-designated S&DR heritage assets, contrary to national and local planning policies
  - Scale of development should be reduced to alleviate impact on designated and non-designated heritage assets.
  - Contribution should be sought towards creation of S&DR Walking and Cycling Route

Following the amendment of the scheme to remove arrays from some parts of the site and the submission of a supplementary Heritage Statement to consider the impact on the recently listed overbridge, the following further comments have been received:

- Support the removal of arrays from area 8 and the submission of the supplementary Heritage Statement however amendments have not addressed harm to the setting of the Myers Flat embankment nor the need to remove arrays from other parts of the site and objection remains.
17. CPRE Durham objects to the application for the following reasons:
    - Concerned about the amount of greenfield sites now being used for solar arrays for a “temporary” period of 40 years
    - Loss of such land for industrial purposes of considerable concern
    - Note representations of Friends of Stockton and Darlington Railway and are concerned about the potential impact on this heritage asset
    - Proposal will increase industrialisation of farmland on eastern side of A1(M). Much is now allocated for development in the recently adopted Local Plan. Merit in saving other land adjoining the motorway from such development.

18. Durham Bird Group objects to the application for the following reasons:
  - Note the number of breeding birds the site supports, which are species of particular importance
  - Unable to find consideration of mitigation measures proposed
  - If provision is not made to secure their conservation, application should be refused.
19. Savills, on behalf of Hellens Land and Homes England object to the application for the following reasons:
  - Impact of the proposed development on the land to the south of the application site at Greater Faverdale for the Burtree Garden Village site which is allocated in Darlington Local Plan for 2,000 homes and up to 200,000 sq m employment space
  - Clarification needed of access arrangements during construction and operation and the relationship with Local Plan infrastructure
  - Implications relating to objectives of Burtree Garden Village Design Code
  - Assessment of visual impacts and glint and glare upon residential receptors and access road within allocation H11 and consideration of any impacts on character or amenity within Burtree Garden Village.

## **PLANNING ISSUES/ANALYSIS**

### **(a) Principle of Development**

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework, 2021 (NPPF) supports the plan led system providing that planning decisions should be “genuinely plan-led”. The Darlington Local Plan (2016 – 2036) has recently been adopted (February 2022) as the development plan for the Borough and all previously saved policies of the Local Plan (1997) and Core Strategy (2011) have now been superseded.
21. There is a raft of policy support at international, national, and local level which aims to combat climate change and to provide energy security. The UK Solar PV Strategy identifies the need for large-scale solar farms on greenfield sites and it is acknowledged that the delivery of a solar farm, amongst other renewable technologies, will have a positive role in tackling climate change and contributing towards a diverse energy mix.
22. Chapter 14 of the NPPF deals with the promotion of renewable energy projects. Paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of



existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

23. Paragraph 158 of the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should:
  - a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
  - b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.
24. The NPPF also states that Local Planning Authorities should recognise the economic and other benefits of the best and most versatile agricultural land. Footnote 53 indicates that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The NPPF defines best and most versatile agricultural (BMV) land as land in grades 1, 2 and 3a of the Agricultural Land Classification.
25. Local Plan Policy DC1 also recognises the role that good design plays in helping to reduce carbon emissions and increasing the resilience of development to the effects of climate change and is supportive of proposals for energy efficiency measures and low carbon technologies.
26. Local Plan Policy IN9 is also supportive in principle of renewable and low carbon energy developments across the Borough where proposals are in accordance with the relevant criteria and in determining planning applications for such projects significant weight will be given to the achievement of wider social, economic and environmental objectives. Part B of Policy IN9 does also specifically state that solar power developments will be granted permission if it can be demonstrated that a range of specific considerations have been accounted for. These include siting, area coverage and colour of solar panels; landscape and visual impact; agricultural land quality; glint and glare. Appropriate mitigation and/or compensation measures and monitoring to address any effects identified and considered will be required prior to any development proceeding.
27. The application site is located to the north west of Darlington and is currently in agricultural use. It is not currently proposed or identified for any use within the adopted Local Plan and so the proposed development will not prejudice the delivery of any other. It does however involve development of agricultural land and although advice contained within the National Planning Practice Guidance (NPPG) encourages the use of land by focussing large scale solar farms on previously developed and non-agricultural land, the development of agricultural land is not precluded. In this instance the site does include some areas of made ground and some former landfill/tip sites in addition to agricultural land.

28. An agricultural land quality survey has been provided which demonstrates that 85% of the site area is Grade 3b, 4 or other classification (i.e. access tracks, ditches, streams, wooded areas) and that 15% of the site focussed in the south western part of the site is Grade 3a which does meet the definition of best and most versatile agricultural land. In this instance the extent of BMV land affected (9.1ha) is below the threshold for statutory consultation with Natural England, as set out in Schedule 4 of the Town and Country Planning (Development management Procedure (England) Order 2015 which requires Local Planning Authorities to consult Natural England on all non-agricultural applications that result in the loss of more than 20ha of BMV land if the land is not included in a development plan.
29. The submitted survey states that due to moderately high topsoil clay content and imperfect drainage this land has wetness limitations which restricts machinery access in winter and early spring. Ordinarily to satisfy the policy requirement the scheme should be amended to exclude this area of BMV and retain this for growing and production. However the specific characteristics of this Grade 3a land, which is currently used for grazing and not arable production, and which would continue to be used for grazing to a lesser degree, means this temporary loss is unlikely to result in a significant reduction in growing and production from this land parcel particularly given its limited size (9.1ha). On this basis, the proposal is not considered to conflict with the particular requirements of Policy IN9B in relation to agricultural land quality.
30. Although the development would temporarily remove a proportion of agricultural land from arable use it would still be available for low intensity grazing with the establishment of a more biodiverse meadow planting scheme proposed, which would satisfy the policy requirements of Policy IN9 B for continued agricultural use and biodiversity improvements. Furthermore, the development is temporary in nature and fully reversible, and as such the expectation is that there would be no adverse effects following decommissioning of the land's capability for agriculture.
31. A planning condition is recommended limiting the development to a period of 40 years and requiring the submission of a scheme for the restoration of the site to its former condition, to be agreed in writing by the Local Planning Authority. The decommissioning of the site at the end of the operational period (40 years) would see the land restored to its former condition and capable of resuming arable production. On this basis, the proposal is considered to comply with Local Plan Policy IN9 and the NPPF.
32. There is a presumption in favour of sustainable development in Local Plan policies and the NPPF. Local Plan Policy IN9 is supportive of proposals for renewable energy schemes, including solar development, and the proposal is therefore acceptable in principle subject to consideration of site-specific issues relating to landscape and visual amenity, access and highway safety, residential amenity, heritage assets, ecology, flooding and drainage, which are assessed below.

**(b) Landscape and Visual Impact**

33. A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application which considers the likely landscape and visual effects associated with the proposed development. An existing solar farm at School Aycliffe, located on the western edge of Newton Aycliffe, and a consented solar farm at Whinfield Farm, Lime Lane, Brafferton approximately 3.7km to the north west of the application site have also been considered within the baseline of the assessment. The LVIA includes photomontages from 6 key viewpoints in close proximity to the development at Year 1 and Year 10 with mitigation in place. These viewpoints are representative of views of the site from residents, walkers and motorists/rail users. A full landscape character assessment has been undertaken for the development site. The site is located predominantly within National Character Area (NCA) 23 'Tees Lowlands', with a small part of the north of the study area located within NCA15 'Durham Magnesium Limestone Plateau'.
34. A Zone of Theoretical Visibility (ZTV) has been generated which illustrates the potential visibility of the proposed solar panels at the application site based on topography, but not accounting for screening as a result of vegetation or built form, due to the limitations of the model. The ZTV suggests that potential visibility of the proposed solar farm would be variable across the undulating landform of the study area, with the main potential visibility concentrated within approximately 2km of the site, with further areas of potential visibility across the northern parts of the study area, and more limited potential visibility across the remaining parts of the study area. Landscape features such as woodland, tree belts, built form etc are however likely to reduce the amount of the proposed solar farm visible from any given location, particularly given the limited height of the proposal.
35. The visual impact of the proposed development is further assessed in more detail by viewpoint analysis at 6 key viewpoints around the site. The assessment considers the effects of the development on landscape character and visual amenity from these viewpoints, at Year 1 and Year 10 with proposed mitigation planting. Overall effects of major/moderate and above are considered significant whereas at the opposite end of the scale, moderate/minor effects or lower changes are unlikely to result in significant changes to views of landscape character.
36. Overall, the assessment concludes that in terms of landscape character there will be no effects on 3 of the 6 viewpoints at Year 1. There will be a minor adverse effect on landscape character at viewpoint 1 (Burtree Lane layby, 0.3km to the SE of the site) in year 1 which will reduce to no effects with proposed mitigation in year 10. There will also be moderate/minor adverse effects at two further viewpoints 2 and 5 (Footpath near Whiley Hill Farm, 0.8km to the north of the site and Footpath near Trafalgar House, Heighington 3.5km to NW of the site) which will not reduce with mitigation. In the context of the assessment criteria this is not however considered to be significant.
37. In terms of visual impact, the assessment concludes that there would be minor/no effects at 4 of the viewpoints at Year 1 and Year 10 and moderate/minor effects at viewpoint 5, the footpath near Trafalgar House, Heighington to the NW of the site, which are not

considered to be significant. The assessment does however identify that there will be major/moderate impacts to residents and walkers at viewpoint 2, which will reduce to moderate+ with mitigation in year 10. This residual impact would be considered as a significant impact in this location.

38. Aside from the viewpoints, the LVIA considers the impact on individual properties within close proximity to the proposed development. Some of these properties would have limited views of the proposed development based on such factors as distance from the site and intervening topography, vegetation and built form. Some of the properties however are likely to have more direct views of the development, and the assessment concludes that in some cases this would result in a significant effect to a small number of properties located within the vicinity of viewpoint 2, to the north west of the site, and to the south east of the site. A native tree belt between 5 – 10m wide is proposed around the south western and south eastern boundaries of the site which over time will add further filtering and screening of the closest parts of the proposal.
39. The assessment also considers the impact of the development on the local rights of way network, public highways and rail users. It is proposed that existing hedgerows adjacent to footpath no. 6 that passes close to the eastern boundary of the site will be allowed to grow to a height of 4m and will also be supplemented by additional native tree and hedgerow planting along its length. It is anticipated that it will take between 5 and 7 years for new hedgerows to establish and existing hedgerows to reach full height. No significant effect on the visual amenity of this right of way is expected. Viewpoints 2, 3 and 5 all illustrate views of the proposal from the public right of way network at distances ranging between 0.8km and 3.5km from the site. None of these views would result in a significant effect on the visual amenity of walkers, however there would be localised impacts confined to sections of public rights of way in close proximity to the site including footpaths no. 6 and no. 7 which pass close by the eastern and northern site boundaries.
40. The proposed development would potentially be visible from parts of the A1(M) and Burtree Lane in the vicinity of the site. Landscape mitigation proposals show that existing hedgerows along these boundaries are to be grown and maintained at a height of 4 metres and will be reinforced with new native hedgerow and tree planting which will also be grown and maintained to a minimum 4m height. Motorway users would gain fleeting views of the proposal initially before mitigation planting establishes and this would not be significant for these road users. There would be a significant effect to motorists on Burtree Lane in year 1 which would reduce by year 10 due to mitigation resulting in no significant effect on visual amenity. Beyond these two routes, visibility of the proposals from the local road network would be extremely limited and generally screened by roadside and intervening hedgerows.
41. The development would be visible from the Darlington to Bishop Auckland Railway line which runs adjacent to the eastern boundary of the site. The East Coast Mainline is also located approximately 1.7km to the east of the site, however the assessment concludes that in view of this distance and due to intervening vegetation, potential views of the proposal from this route would largely be screened. The development would be more

readily visible from the Darlington to Bishop Auckland Railway line for a section of the route between Burtree Lane and the A1(M), approximately 1.6km in length. Due to the speed of travel of trains on this route, this would represent a short amount of time and a small proportion of the overall route. Existing vegetation along the route would filter visibility of the proposal, especially in the summer months and the assessment concludes that the proposal would have no significant effect on the visual amenity of rail passengers on this route.

42. The assessment concludes that through careful site design and with mitigation, there would be some localised residual significant effects in terms of landscape character and visual amenity to a small number of residents. There would not be any significant effects on landscape fabric, landscape designations or any of the other landscape character areas located within the 5km radius study area. There would be no significant effects on the visual amenity of the vast majority of residential receptors, or on the visual amenity of rail passengers within the study area. Proposed mitigation measures would establish and provide filtering and screening of views over time. Officers agree with the conclusions of the assessment.
43. While there would be some harm to the character, quality, and distinctiveness of the local landscape which in some localised areas would be substantial, this is limited to a small area within close proximity of the site and to the visual amenities to a small number of residents. There would be no harm to important views or features. Given the benefits of the proposal in respect of renewable energy generation this level of harm is not considered to be unacceptable in the balance of considerations. The proposals incorporate mitigation measures to mitigate adverse landscape and visual effects and make some localised contribution to the conservation and enhancement of the local landscape. This is considered in more detail in the Ecology section of this report. The proposal is therefore considered to comply with Local Plan Policies DC1, ENV1, ENV3 and IN9 and the NPPF.

**(c) Access and Highway Safety**

44. It is proposed that the development will be accessed from Burtree Lane via an existing field access which is to be upgraded to serve the development. While the Highway Engineer considers this to be acceptable in principle, further information is required. This would be secured by planning condition which would require details of appropriate visibility splays and other technical requirements of the access and works within the public highway to be submitted for approval. Swept path analysis is also required to demonstrate that the access and internal access roads are suitable for the largest vehicles needed to enter the site. Further information is also required regarding internal parking areas for vehicles both during the construction and operational phases of the development.
45. Information relating to traffic generation and vehicle movements during the construction period has been provided with the application. It is expected that there will be a 4-month construction period. During the construction period deliveries, where possible, are to be

limited to off-peak hours (09:00 and 15:00) during weekdays to reduce impacts on local road users. The total number of HGV movements (including for deliveries to and vehicles leaving the site) is 1644 across the four month construction period, equating to an approximate daily average of 9 HGVs (18 two-way movements per day). The construction programme shows that the busiest period for vehicle movements will be weeks 1 – 4 which are anticipated to have a maximum of 30 two-way HGV movements per day. This equates to an average of 5 HGV movements per hour assuming off-peak delivery between 9am and 3pm. Based on this expected level of temporary traffic generation, the proposed development does not raise any highway safety concerns or traffic capacity assessment requirements.

46. In line with other similar developments, post construction phase, the site is to be remotely monitored and operate with automated systems with routine visits for checking of the site and cleaning of the panels. During normal operations, this will equate to a monthly visit and as such the site is not considered to have any material impact upon the local highway network post-construction, provided a safe means of access is secured and maintained for the lifetime of the development, to be secured by planning condition. It is also recommended that pre-construction and post-construction road surveys to identify and rectify any damage to Burtree Lane or the verges caused by construction traffic take place to ensure any damage associated with the development is rectified at the developers' cost. This is a matter between the developer and the Council as Highways Authority and is to be dealt with as an informative to any permission granted.
47. A review of the past 5 years of Police data reveals that 1 'minor' personal injury collision and 1 'serious' collision has occurred within the vicinity of the site access. It is concluded that there is no pattern of accidents in the immediate locality of the site or the study area which suggests a particular road safety issue, which the proposed development would adversely impact.
48. Whilst the development would generate a significant amount of construction traffic movement during the proposed 4 month construction period, based on the expected level of temporary traffic generation, the proposed development does not raise any highway safety concerns or traffic capacity assessment requirements. During the operational period, the site would be automated and would only be attended for monitoring and maintenance purposes. Subject to conditions requiring the submission of a final construction management plan and details of the site access, the Council's Highway Engineer raises no objection.
49. The application also has a direct north-western boundary with the A1(M) which forms part of the strategic road network. National Highways recommend that conditions be attached to ensure that details of the proposed site boundary fence adjacent to the A1(M) are submitted for approval and that a construction traffic management plan which specifically considers how construction traffic will impact upon the A1(M) also be submitted for approval. Subject to these conditions, National Highways raise no objections to the proposal.

50. Network Rail have also commented on the application and raise no objection to the proposal subject to a number of conditions which seek to protect the safety and operational needs of the adjacent railway. Network Rail advise that they accept the findings of the submitted Glint and Glare study which concludes there will be a low impact on the adjacent railway line, however request that a monitoring condition be attached to deal with any future issues should they arise relating to glare issues for an approaching train driver passing the site. These conditions address the matters raised for consideration by British Transport Police in relation to the impact of the development on the operational safety of the railway line.
51. Subject to these conditions, the proposal is considered to comply with Local Plan Policies DC1, IN4 and IN9.

**(d) Residential Amenity**

52. Specific considerations in relation to residential amenity are noise, construction activities, contamination, glint and glare and visual amenity which are considered below.

Noise

53. The submitted noise assessment has identified the nearest noise sensitive receptors not associated with the development and has calculated and modelled the noise from the development at those locations. The noise model assumed that all equipment associated with the solar farm was running at 100% and noise contour plans created by the model show that at the nearest noise sensitive receptor (Little Whessoe) the noise level when the solar farm is operational are unlikely to be discernible above the existing background noise levels. Having reviewed the noise assessment, the Environmental Health Officer agrees with the conclusions of the assessment that there are no noise-related issues arising from the development and that noise mitigation is not required.

Construction Activities

54. The construction phase of the development is proposed to take 4 months. Although this is a relatively short time and the development is separated from nearby dwellings, there is still potential for occupiers of those homes to be impacted by noise and dust from construction activities. This should be dealt with in a Construction Management Plan which is to be secured by planning condition. In addition, a condition restricting construction works, including deliveries to the site to between the hours of 08:00 – 18:00 Monday to Friday and 08:00 – 14:00 on Saturdays, with no work to take place on Sundays and Bank Holidays, unless with the prior agreement of the Local Planning Authority, is also recommended.

Land Contamination

55. A Preliminary Contaminated Land Risk Assessment has been submitted with the application which identifies that the south eastern corner of the proposed site was once a licensed landfill site, operational during the 1980s. The report also identifies that historical Ordnance Survey Records show a further 'refuse tip' in the north of the site to the west of the railway line. This appears to be associated with a former sand quarry,

Whiley Hill Sand Pit, and appears to have been excavated prior to the construction of the A1 and appears on OS records between 1966 – 1989. The Risk Assessment also includes details of previous site investigations at the site undertaken in 2019 and 2020.

56. The submitted Risk Assessment is a comprehensive desktop study and review of the historic ground investigations of the site. It has shown that there are valid pollution linkages which could impact on the proposed use for the site as a solar farm, however the Environmental Health Officer advises that these are not so significant as to refuse the application. Further site investigation is however needed to better understand the risks and how to mitigate against them, which will include ground gas monitoring over a suitable time period. It is therefore recommended that standard land contamination conditions are attached to any approval granted.
57. The Environment Agency raises no objection to the application and concurs with the views of the Environmental Health Officer that further monitoring is undertaken to inform any risk posed by the development interacting with previously deposited waste. The suggested land contamination conditions will also cover the points raised by the Environment Agency.

#### Glint and Glare

58. The submitted Glint and Glare Assessment considers the possible effects of glint and glare from the proposed development on a number of receptors, including nearby dwellings, road and rail users. In terms of impact on residential receptors the assessment concludes that ground effects such as buildings and vegetation cover would prevent any possible residential receptors from being impacted, and that glint and glare would not be an issue at any of the residential receptors considered in the assessment and no further mitigation is required. The Environmental Health Officer concurs with this conclusion. Neither the Council's Highway Engineer nor National Highways have raised concerns about glint and glare on the safe operation of the strategic or local road networks.

#### Health Impact

59. As required by Local Plan Policy DC3(g) a Health Impact Assessment has been submitted with the application which sets out how health considerations have informed the design. The HIA has been undertaken in line with government Public Health guidance and is proportionate to the nature of the proposed development.
60. Overall, the proposed development would not result in unacceptable impacts upon the amenities of nearby residential receptors subject to those conditions as outlined. On this basis, the proposal is considered to comply with Local Plan Policies DC1, DC3 and DC4.

#### **(e) Impact on Heritage Assets**

61. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, the



Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.

62. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset. Local Plan Policy DC1 is supportive of energy efficiency measures and low carbon technologies where this does not result in harm to the significance of a heritage asset. Policy ENV1 requires proposals affecting all designated heritage assets to give great weight to an assets conservation, conserving those elements which contribute to the assets significance and any contribution made by their setting in a manner appropriate to their significance irrespective of whether any potential harm amount to substantial harm, total loss or less than substantial harm.
63. Part D of Policy ENV1 states that proposals which would remove or harm the significance of a non-designated heritage asset will only be permitted where the benefits are considered to outweigh the harm. Proposals should seek to avoid harm to those features, including setting, which contribute to the significance of a non-designated heritage asset, through measures such as good design. Paragraph 203 of the NPPF advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
64. Policy ENV2 also states that proposals which seeks to conserve and enhance elements which contribute to the significance of the Stockton and Darlington Railway and its setting, including the trackbed and branchlines, will be supported. Proposals will be supported where they include measures that preserve any physical remains along the route, include site interpretation and where appropriate reinstate a legible route where those remains no longer exist. Development proposals that support the development of the S&DR as a visitor attraction including the creation of walking and cycling paths along its route will also be encouraged. The application proposes the siting of an information board along the route of the S&DR and also proposes to enhance the section of the footpath within the application site as part of the proposals to encourage walking and cycling along the route.
65. A Heritage Statement (HS) has been submitted with the application which identifies the relevant heritage assets affected by the proposed development and considers the impacts on their significance and settings. This is considered to meet the requirements of paragraph 194 of the NPPF. There are no designated heritage assets within the site boundary, however the proposal lies within the setting of a number of assets and has the

potential to impact on the setting of these assets. The Stockton and Darlington Railway, which forms part of the eastern boundary of the site, is a non-designated heritage asset of national importance. The proposed development has the potential to impact upon the setting of the railway, together with that of the Grade II listed overbridge at Whessoeville (designated heritage asset) and the Myers Flat embankment incorporating the Coatham Grange accommodation bridge (non-designated heritage asset) when seen from footpath No. 6 and the A1(M). Since the overbridge was listed around the time the application was submitted, a supplementary HS has been provided which assesses the impact of the development on the setting of this now designated heritage asset.

66. A geophysical survey, desk based research and trial trenching have been carried out which have recorded a number of certain and possible archaeological features on the site. The assessment of development effects is largely restricted to those areas within the application boundary which have not previously been affected by modern landfill or associated made ground. A former refuse tip and pond and an area of disturbed or made ground which extends to some 13.6ha in the northern area of the site, as well as an area of modern landfill and made ground extending to 8.8ha to the north west of Little Whessoe have been excluded from the assessment. A number of potential heritage assets of archaeological interest that date to the prehistoric or Roman periods have been identified within the site boundary as a result of trial trenching evaluation. Later activity associated with the construction of the S&DR which opened in 1825 and the construction of the A1(M) was also recorded.
67. Depending on the results of proposed further ground investigations within the planning application boundary, including contamination surveys, it is possible that additional trial trenching may be required within the northern part of the site and also in the south western part of the site where Roman pottery was recorded. In addition, the HS sets out a programme of proposed mitigation which has been considered and agreed with Durham County Council Archaeology Section. In order to secure the proposed further trial trenching and proposed mitigation measures conditions are proposed.
68. The potential effects upon both the setting and significance of the Stockton and Darlington Railway (S&DR) relate to those upon the overall length of the railway link adjacent to or east of the planning application boundary, and upon the two associated structures, namely the Coatham Grange accommodation bridge at the northern end and the listed overbridge at the southern end. The scheme has been amended since the application was submitted to omit arrays entirely from area 8 between footpath no. 6 and the listed overbridge and to reduce the extent of arrays from area 2 towards the northern end of the site. Subsequent reductions in the extent of arrays within area 3 adjacent to the A1(M) have also occurred to remove panels from areas of higher flood risk. The application site would run adjacent to the S&DR for a length of approximately 420m in the north eastern corner.
69. Views of the proposed solar farm from the Heighington Conservation Area would be limited to the north western corner of West Green, the south eastern edge of the area, and the tower of St Michael's Church. In these views, the rear of the panels would be a

distant feature to the south-east and seen against the backdrop of the other buildings beyond. Any predicted effects upon the special interest of the conservation area are therefore considered to be minor or neutral in magnitude. No cumulative effects with other existing or consented solar farms are predicted.

70. The proposed solar arrays would be located adjacent or close to the Darlington and Stockton Railway, including two associated bridges along this length. As a result some effects are predicted upon the setting of this section of the S&DR and the two bridges. Amendments have been made to the scheme to omit arrays entirely from area 8, between footpath no. 6 and the listed overbridge, and to reduce the extent of arrays in area 2 in the north eastern corner of the site.
71. In regard to the listed overbridge, the supplementary HS concludes that there would be no direct effects upon the bridge structure, and while the proposed arrays would be located within the setting of the bridge it is not predicted to have any impact on the understanding of the historical significance of the railway. The omission of arrays from area 8 will increase the separation of the arrays from the designated heritage asset and overall there will be no interruption in views of the bridge from this aspect.
72. The solar arrays and associated infrastructure would be located across a substantial area further to the north and west of the line (to which there is no public access) and views northwards of the embankment would be partially restricted, particularly those from the A1(M). Views of the northern extent of the embankment from the footpath would also be partially interrupted by the arrays. There would be extensive views of the arrays from trains on the northern part of the railway, but these would be both transitory and seen against the backdrop of the A1(M). Despite the proximity of the proposals any impacts upon the setting of the railway line and embankments would be limited to its western side. While the landscape setting would be altered, no effects upon the understanding of the historical significance of the railway are predicted. The HS predicts only a moderate or slight adverse effect upon the archaeological and architectural significance of the trackbed and bridges, which would be moderate or minor in magnitude and reversible.
73. Overall, and as a result of the mitigation measures incorporated at the design stage, together with the subsequent omission of arrays from area 8 and a reduction in the number of arrays from area 2 to the north, and subject to the implementation of the proposed outline mitigation strategy for further archaeological investigation and recording, it is considered that the residual effects of the proposed development would result in less than substantial harm to those heritage assets affected. In such cases the NPPF requires that this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use (para. 202).
74. In this instance, there is a raft of policy support at both a national and local level for renewable energy projects. Other public benefits include:

- The project would make an urgent contribution to clean energy generation by utilising predominantly lesser quality agricultural land currently in intensive agricultural use
  - The solar PV installation would result in a reduction in carbon emissions associated with energy generation equating to approximately 10,900 tonnes of CO<sub>2</sub> per annum. The proposed PV installation is the equivalent of providing energy needs of approximately 14,400 Darlington households
  - The proposed development will assist in Darlington Council's and the UK Government's target of reaching net zero carbon emissions by 2040
  - The construction phase will create up to 100 full time equivalent (FTE) on site jobs and a further 135 indirect and induced FTE jobs from the supply chain and related services
  - The boost to the local economy and available local workforce will help support the vibrancy of the local economy in nearby settlements
  - Any perceived heritage impacts would be temporary, the development would occupy the application site for a temporary period after which the equipment would be removed, and the land reinstated
  - The proposals will result in biodiversity enhancements and can achieve a biodiversity net gain of 46%
  - The upgrading of the footpath within the site and provision of an information board to advance understanding of the S&DR as required by Policy ENV2.
75. In noting the Friends of the Stockton and Darlington Railway's sustained objection to the application, on the basis of the information provided with the application, including the Heritage Statement and Supplementary HS and subsequent revisions to the layout of the proposed development in terms of the removal of arrays from area 8 and a reduction in the number of arrays in area 2, together with the provision of an information board and the upgrading of a section of the footpath, officers are satisfied that the proposal has been thoroughly considered in accordance with the requirements of Planning (Listed Buildings and Conservation Areas) Act 1990.
76. Furthermore, in accordance with the requirements of the NPPF, 2021 (para. 202) it is considered that there are significant social, economic, and environmental public benefits which would be derived from the proposed development which would outweigh the less than substantial harm to the setting of nearby designated and non-designated heritage assets. While there will be some residual conflict with Local Plan Policy ENV2 this conflict is also outweighed by the range of public benefits identified and overall, the proposal is considered to accord with the Planning (Listed Building and Conservation Areas) Act 1990 (Sections 66 and 72) and the National Planning Policy Framework, 2021.
- (f) Ecology**
77. An Ecological Assessment has been undertaken for the site which includes a desktop study, Phase 1 Habitat survey, breeding bird and great crested newt surveys, and a Biodiversity Net Gain calculation using the Natural England/DEFRA Biodiversity metric. The assessment confirms that there are no statutory or non-statutory nature

conservation designations present within the site. There are three Local Wildlife Sites (LWS) in proximity to the site, but none of these would be affected.

78. The proposed development is located on agriculturally improved grassland and that this is the only habitat that would be lost to the development, other than a small loss of species-poor native hedgerow. There will be no need for tree felling, and existing watercourse crossings have been used where possible, with only a single new drain crossing required, the ecological impacts of which will be minimised through the use of a bridge rather than culverting.
79. The site layout has been designed to ensure that only lower quality habitats would be affected, with buffers applied from the main stream following through the site (minimum 10m), from all other watercourses (minimum 5m) and all hedgerows (minimum 5m). These buffers will also ensure that any adverse effects on bats are avoided. Mitigation measures will be required during construction to avoid any significant impacts on breeding birds through the implementation of a Breeding Bird Protection Plan. Great Crested Newts were recorded on the Coatham Marsh LWS, within 500m of the site boundary and an outline mitigation plan for this species to avoid any significant impacts is set out in the assessment.
80. Pre-construction survey checks will also be required for badgers and for water voles, to inform any additional mitigation for these species, in case they have moved into the site prior to any construction activities starting.
81. A Biodiversity Management Plan (BMP) has been submitted with the application which has been informed by the Ecological Assessment and associated surveys. The BMP sets out the proposed habitat protection, mitigation and enhancement measures for the proposed development as well as detailing the ecological management and monitoring practices to be adopted with the aim of developing and maintaining wildlife habitat to provide a biodiversity net gain for the lifetime of the development (40 years). The BMP has been amended during the course of the application in response to the comments of the Council's Ecology adviser.
82. The Ecological Assessment identified that some breeding birds will be displaced from the site during the operational phase by the presence of the solar panels, which include open ground species such as lapwing and curlew, and the BMP includes mitigation measures within the site boundary together with some revisions to the site layout, as follows:
  - Restoration of lowland meadow - grassland will be managed after construction to reduce grazing from its current levels, and to promote the re-establishment of a more diverse meadow community. An area of 50ha of improved grassland will be enhanced to deliver a more biodiverse neutral grassland, located under and around the proposal panel land.
  - Expansion and enhancement of marshy grassland – proposed to reduce grazing of the wetter ground alongside the main stream to encourage marshy grassland habitat to develop further over a wider area. An area of 5.4ha of marshy

grassland will be restored from agriculturally improved grassland, and will be specifically managed to provide optimal habitat for breeding ground-nesting species including lapwing and curlew

- Native hedgerow planting – 950m of new native hedgerow planted along the A1(M) boundary of the site
- Native woodland planting – 0.2ha of new native broad-leaved woodland planted in the south east corner of the site
- Fence design/management – to avoid barriers to mammal movement (brown hare, badger, hedgehog)
- Great crested newt – a hibernaculum will be created as part of the works, installed within 100m of where great crested newts were recorded, to further enhance the habitats on site for amphibians
- Bird and bat box provision – to provide enhanced nesting/roosting opportunities
- Breeding Bird and Protected Species Protection Plan - to be implemented during construction.

83. The biodiversity impacts associated with the proposed development have been assessed using the Natural England/DEFRA Biodiversity metric. The calculations show that the proposed development will result in a biodiversity net gain of 46% in habitat units and 8.41% in hedgerow units. Additionally, the provision of bird and bat boxes also provide biodiversity benefit which is not included in the net gain calculation process.
84. The Council's Ecology adviser considers that the draft BMP is sufficient to give the Local Planning Authority confidence that the measures can be delivered. The production of a final version of the Biodiversity Management and Monitoring Plan and its delivery will need to be secured. On this basis, the proposal is considered to comply with Local Plan Policies ENV7 and ENV8 and the NPPF with regard to biodiversity net gain.

**(g) Flooding and Drainage**

85. The site is predominantly located within Flood Zone 1, with the exception of a small area to the far north of the site which is located in Flood Zone 2 and 3. The application has been amended to show the arrays removed from within Flood Zones 2 and 3 such that all development on the site will take place entirely within Flood Zone 1. This is in accordance with the aim of the sequential approach set out in the NPPF and echoed in Local Plan Policy DC2, to steer new development to areas of at the lowest probability of flooding in Zone 1. In relation to Flood Risk Vulnerability and Flood Zone 'Compatibility' the planning practice guidance to the NPPF advises that all uses of land are appropriate in Flood Zone 1.
86. The application has been submitted with a Flood Risk Assessment (FRA) and Drainage Strategy (DS). The FRA has considered the potential consequences of flooding from all other sources, which include directly from rainfall and rising groundwater, sewers, and other artificial sources. While some parts of the proposed site access tracks are expected to be subject to localised flooding, this is an unmanned facility and as such this would rarely impact people. The proposed maintenance road will cross the identified surface

water flow routes in places, however it is proposed that these crossings will be suitably constructed so as not to impede flows.

87. The development will create a large impermeable area with the potential to increase surface water runoff from the site if not suitably managed. The DS sets out that this will be addressed by careful panel arrangement comprising a large number of small panels separated by surrounding greenfield land. Rainfall will fall onto the panels and run off directly to the ground beneath the panels, although this will do so in a concentrated drip line beneath the bottom edge of the panel, with the potential to saturate and erode the top layer of soil. To manage this localised effect, a small SuDS source control feature will be introduced at each panel comprised of a planted or stone-filled interception depression to enhance natural storage, erosion protection and diffused overflow. Small interception depressions will also be created to serve the small battery sites, inverters, and associated equipment located around the site.
88. It is not proposed to formally drain the access tracks that will be constructed around the site. They will be created with permeable materials such as gravel or grass-crete such that rain falling on these areas will mimic the greenfield condition. The proposed sub-station will create an impermeable area of approximately 1700m<sup>2</sup>, which has the potential to increase runoff locally if not suitably managed. A small SuDS scheme will be introduced with runoff from the impermeable area collected into an attenuation storage basin/swale with outfall controlled by a small weir.
89. On this basis, the Flood Risk Assessment and Drainage Assessment concludes that the proposed development is appropriate for the flood risk and is not expected to increase the risk of flooding elsewhere subject to the mitigation measures outlined. Stockton Borough Council acting as technical advisors to Darlington Borough Council as Lead Local Flood Authority raise no objection to the proposed development and subject to a condition requiring the development be carried out in accordance with the FRA/DS the proposal is considered to comply with Policy DC3 and the NPPF in regard to flood risk.

**(h) Public Rights of Way**

90. Footpath No. 6 in the Parish of Whessoe runs from Burtree Lane to the south of the application site, through the group of buildings at Little Whessoe and heads in a northerly direction along part of the eastern site boundary before heading in an easterly direction away from the site towards Coatham Grange. The site layout has been amended to omit a small area of panels (area 8) between the footpath and the railway line in the eastern part of the site which would have resulted in the footpath running through the development for a short section of approximately 200 metres.
91. The submitted plans show that the proposed panels would be off set from the western side of the footpath and that the boundary of the development with the footpath would be enclosed by a combination of new native tree and hedgerow planting and existing hedgerows which would be grown and maintained at a height of 4 metres. There would also be some impact to the footpath during the construction period, although the

application states that the footpath would remain open during this period with appropriate safeguards in place to protect users during this time.

92. While there would be some initial visual impact until the landscape mitigation measures reach maturity. This will allow close range views of the development to the west of the footpath, however the omission of panels from area 8 will remove the sense of enclosure by the development for users of the footpath for this short section, retaining open countryside views from the footpath in an easterly direction. As set out previously in the report, the impact of the development on footpath No. 6 has been assessed in the LVIA which concludes that while there would be some localised impacts to sections of footpath no. 6, with mitigation none of these views would result in a significant effect on the visual amenity of walkers. Enhanced biodiversity provision in and around the site will also be a positive experience to users of the path over time.
93. While the footpath has not been considered as a receptor as part of the noise assessment, the overall conclusion of the assessment was that there are no noise-related issues arising from the development and that noise mitigation is not required. Any noise from the development that may be perceptible to users of the footpath would however only be experienced for a relatively short period of time and given that the footpath is used in a transient way, noise is not considered to unacceptably impact upon users of the footpath. Similarly, users are unlikely to be adversely impacted by glint and glare given that screening between the panels and the footpath would block views of the proposed development over time.
94. The Council's Rights of Way Officer is supportive of this amendment to the proposed development and welcomes support for the provision of an information panel. It was also suggested that the surface of the footpath be upgraded adjacent to the proposed development for use by both pedestrians and cyclists since this is proposed to become part of the Stockton and Darlington Railway promoted route and the applicant has agreed to the upgrading of the section of footpath 6 to the north of the group of buildings at Little Whessoe to the accommodation bridge at Coatham Grange, with details of both to be secured by planning condition. Overall, and subject to these conditions, the proposal is considered to comply with Local Plan Policies DC4 and IN9(b).

**(i) Other matters**

95. An objection to the scheme has been received on behalf of Hellens Land and Homes England with regard to the impact of the proposed development on the land immediately to the south of the site which is the Burtree Garden Village housing and employment land allocation within the Local Plan. The objection relates to potential conflict with the proposed solar farm site access and Local Plan infrastructure with regard to the proposed access to the garden village site to the south; the need to assess the impacts of the development on the objectives of Burtree Garden Village Design Code; and to assess the visual impacts and glint and glare upon residential receptors and users of the access road within the allocated site, together with consideration of any impacts on character or amenity within Burtree Garden Village.



96. At the time of writing, there were no live applications submitted in respect of the Burtree Garden Village site to the south of the application site. The Greater Faverdale Burtree Garden Village Design Code was adopted as a Supplementary Planning Document in July 2022 and sets out series of principles in a masterplan and infrastructure phasing plan that any applications coming forward on the site would be required to adhere to.
97. The SPD sets out that access to the wider site will be provided from Rotary Way to the south and Burtree Lane to the north, providing a link road through the development. There is no current application for the proposed link road, however it should be acknowledged that in view of the proposed 4 month construction period associated with the solar farm, any potential conflict between the 2 accesses will be for a relatively short period during the construction period only. Operational access requirements would equate to approximately 1 maintenance visit per month, and decommissioning proposals at the end of the 40 year period would need to be approved by the Local Planning Authority, and account for change in vehicular access and activity arising from any development that has occurred within the operational lifetime of the development.
98. While the development has not been specifically addressed in terms of its direct impact on the housing allocation to the south, the conclusion of the various assessments including the LVIA and Glint and Glare reports conclude that when these matters have been assessed at nearby receptors, any impact will not be significant, and any residual effects can be appropriately dealt with by mitigation.

#### **THE PUBLIC SECTOR EQUALITY DUTY**

99. 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. There is no overt reason why the proposed development would prejudice anyone with the protected characteristics as described above.

#### **CONCLUSION AND RECOMMENDATION**

100. It is clear that the development of renewable energy is in principle in the public interest and is considered a benefit in those terms. The solar PV installation would result in a reduction in carbon emissions associated with energy generation equating to approximately 10,900 tonnes of CO<sub>2</sub> per annum. The proposed PV installation is the equivalent of providing energy needs of approximately 14,400 Darlington households. This represents a significant contribution to the legally binding national and international requirements and associated targets to increase renewable energy generation and reduce CO<sub>2</sub> emissions.

101. The proposal would also provide a range of other benefits including a significant contribution to local employment and the economy more generally. Additional benefits of the scheme include biodiversity and landscape improvements to the site. The development would result in the loss of a small amount (9.1ha) of best and most versatile agricultural land, although the majority of the site is Grade 3b land or lesser quality. The site would continue to be used for grazing, albeit to a lesser extent and when decommissioned, the site can revert to its former use and resume agricultural production.
102. There would be some localised harm to the character, quality, and distinctiveness of the local landscape, and in places this would be substantial. This is however limited to a small area within close proximity of the site and to the visual amenities to a small number of residents. In all other areas, these impacts can be mitigated to an acceptable level. Mitigation measures proposed for biodiversity would result in a significant biodiversity net gain which would be secured for the lifetime of the development by section 106 agreement and are considered appropriate to mitigate against any ecological impacts.
103. The heritage assessment identified less than substantial harm to the archaeological resources on the site and to the setting of the Stockton and Darlington Railway and the Myers Flatt Embankment which are non-designated heritage assets. Impacts on the setting of the Grade II listed overbridge to the south of the site have been reduced by the omission of arrays closest to this part of the site. In accordance with paragraph 202 of the NPPF a sufficient amount of public benefit can be identified to outweigh this less than substantial harm.
104. Consideration has also been given to the impact of the proposals upon highway safety, residential amenity, flooding and drainage, and public rights of way and, subject to appropriate conditions, these impacts are considered to be acceptable.
105. The proposed development is considered to broadly accord with the relevant policies of the Darlington Local Plan (2016 – 2036) and relevant sections of the NPPF. On balance however, the considerable environmental and public benefits of the scheme for the generation of renewable energy are considered to outweigh any harmful impacts of the development. Accordingly, it is recommended:

**THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE COMPLETION OF A SECTION 106 AGREEMENT AND THE FOLLOWING CONDITIONS**

1. A3 (Standard 3 year time limit)
2. The permission hereby granted is for the development to be retained for a period of not more than 40 years from the date when electricity is first exported to the electricity grid (First Export Date) or in the event that electricity is not exported to the electricity grid after 5 years from the commencement of development. Written confirmation of the First Export Date shall be submitted to the Local Planning Authority within one month of the First Export Date. The site shall be decommissioned and all buildings, structures and

infrastructure works above and below ground to a depth of a minimum of 1000mm hereby approved shall be removed and the land restored to its former condition in accordance with details to be submitted to and approved by the Local Planning Authority in writing. The approved details shall then be implemented in full within 6 months of approval of those details.

REASON - The proposed development has a limited lifetime and when that point is reached the land should be restored to its previous character and appearance and to productive agricultural use.

3. In the event that the solar farm does not export electricity for a continuous period of 12 months or longer, a scheme for the restoration of the site, including the removal of all buildings, structures and infrastructure works, dismantling and removal of all elements, shall be submitted to and approved in writing by the Local Planning Authority not later than 12 months following the last export of electricity from the site. The approved details shall then be implemented in full within 6 months of approval of those details or such other period as may be approved in writing by the Local Planning Authority. Alternatively, valid reasoning for the inactivity of the development should be provided in writing to the Local Planning Authority not later than 12 months following the last export of electricity.

REASON - The proposed development has a limited lifetime and when that point is reached the land should be restored to its previous character and appearance and to productive agricultural use.

4. The development hereby approved shall be carried out in accordance with the following plans and documents:
  - (a) Proposed site layout plan, drawing number GBR.0008.DEV.MA.001.0.O dated 11.10.2022
  - (b) Proposed mitigation plan, Figure LV5, Version 1, dated 11.10.2022
  - (c) Proposed mitigation plan, Figure LV5, Version 2, dated 11.10.2022
  - (d) Typical solar panel, Figure 3
  - (e) Typical arrangement of solar panel rows, Figure 4
  - (f) Typical transformer unit, Figure 5
  - (g) Typical client substation/control room, Figure 6
  - (h) Typical DNO substation, Figure 7
  - (i) Typical substation fencing, Figure 8
  - (j) Typical cable trench detail, Figure 9
  - (k) Typical storage unit, Figure 10
  - (l) Proposed site entrance, Figure 11
  - (m) Typical site track detail, Figure 12
  - (n) Typical ditch crossing, Figure 13
  - (o) Typical site fence, Figure 14

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

5. Prior to the commencement of the development precise details of the colours and finishes for all buildings, fixed plant and machinery shall be agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – In the interest of visual amenity

6. Prior to the commencement of the development, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The plan 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 construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014
  - (b) Methods for controlling noise and vibration during the 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) Vehicle and pedestrian routes, type and frequency of construction/staff vehicles, road maintenance, and signage, wheel washing plant, methodology of vehicle movements between the compound and various site accesses, details of operation of banksmen and on-site parking arrangements.

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

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

7. 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 a Sunday or Bank/Public Holidays without the prior written permission of the Local Planning Authority.

REASON – In the interest of residential amenity.

8. Prior to the commencement of the development, precise detail of access(es) shall be submitted to and approved in writing. Details shall include visibility splays, details of cut off drainage to prevent the discharge of surface water onto the highway, location of gates, and turning facilities for the long-term operation of the site. The first 12m of

each access/internal road shall be constructed in a sealed material (i.e., not loose gravel).

REASON – In the interests of highway safety.

9. Precise details of the boundary fencing shall be submitted to and approved in writing by the Local Planning Authority in consultation with National Highways prior to the commencement of the development. The details shall include details of the height, design and location of the fence. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of the safe and efficient operation of the A1(M) Motorway and to ensure that National Highways retain reasonable access onto motorway land and that opportunities for errant access are reasonably minimised.

10. No development shall commence of any phase of the development until a Construction and Traffic Management Plan (CTMP) for the development has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall specifically include:
  - Access arrangements specifically ensuring that the site is not at any stage accessed from the Strategic Road Network (SRN)
  - Impacts from the construction site on the A1(M)
  - Workforce/contractor parking and access; and
  - Details of delivery arrangements

REASON – To ensure that the A1(M) continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, in the interests of road safety.

11. Within 24 months of the completion and commencement of operations of the development hereby approved (such a date as to be notified to the Local Planning Authority) in the event of any complaint to the Council from Network Rail relating to signal sighting safety or driver distraction, upon notification to the Local Planning Authority, the applicant or operator of the solar farm shall as soon as possible and not later than 28 days, submit for approval to the Council details of a scheme of remedial measures to address the concerns raised with details of a timescale for the implementation of the works. The works shall be carried out in accordance with the approved details and timescale.

REASON – In the interest of the safety, operational needs and integrity of the railway.

12. Development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Planning Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. Thereafter the development shall be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interest of the safety, operational needs and integrity of the railway.

13. A suitable trespass proof fence shall be erected adjacent to Network Rail's boundary, details of which shall be submitted to and approved in writing by the Local Planning Authority, to include provision for its future renewal and maintenance. The fence shall be erected in accordance with the approved details and shall be maintained for the lifetime of the development.

REASON – In the interest of the safety, operational needs and integrity of the railway.

14. 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 documents by a suitably competent person(s) in accordance with the 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 full and effectively characterise and evaluate the nature and extent of any potential contamination and assess pollutant linkages. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

15. 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 the published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

16. 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 the contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

17. Any contamination not considered in the Phase 3 Remediation and Verification Strategy, but identified during subsequent construction/remediation works, shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to a further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

18. The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a suitably competent person(s) and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

A Phase 4 Verification and Completion Report shall be compiled and reported by a suitably competent person(s), documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing by the Local Planning Authority within 2 months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

19. No development shall commence until a Strategy for Archaeological Mitigation, including a phased programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological mitigation will then be carried out in accordance with the approved strategy.

REASON – To safeguard any archaeological interest in the site and to comply with Part 16 of the National Planning Policy Framework (NPPF). This is required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

20. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

REASON - To safeguard any archaeological interest in the site and to comply with Part 16 of the National Planning Policy Framework (NPPF).

21. The development permitted by this planning permission shall only be carried out in accordance with the approved Burtree Lane Solar Farm Flood Risk Assessment & Drainage Strategy, Version 3.0 RAB:2681L dated 4<sup>th</sup> March 2022.

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

22. No development shall commence until full details of soft landscaping has been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations, inter relationship of plants, stock size and type, grass, and



planting methods including construction techniques for tree pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All known existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of the development and completed to the satisfaction of the Local Planning Authority.

REASON – To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhanced biodiversity.

23. Prior to the commencement of the development hereby approved (including demolition work, details shall be submitted of a scheme to protect those existing trees to be retained as part of the development. The submitted details shall comprise generally the specification laid down within BS 5837 and where necessary 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 encroachments. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of protection works prior to the commencement of any of the work to allow an inspection of the measures to ensure compliance with the approved scheme of protection. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:
- (a) The raising or lowering of levels in relation to the existing ground levels;
  - (b) Cutting of roots, digging of trenches or removal of soil;
  - (c) Erection of temporary buildings, roads, or carrying out of any engineering operations;
  - (d) Lighting of fires;
  - (e) Driving of vehicles or storage of materials and equipment.

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

24. Prior to the commencement of the development hereby approved, details of a scheme to include the upgrading of the section of Footpath No. 6 in the Parish of Whessoe within the application boundary and under the applicant's control shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the upgrading works shall be implemented in accordance with the approved details and shall be available for use prior to the first exporting of power from the approved development.

REASON – To comply with Local Plan Policy ENV2.

25. Prior to the commencement of the development hereby approved, details of a scheme for the siting and design of an information board along the route of Footpath No. 6 in the Parish of Whessoe within the application boundary to promote understanding of the Stockton and Darlington Railway in this location shall be submitted to and approved

in writing by the Local Planning Authority. Thereafter the information board shall be provided in accordance with the approved details and prior to the first exporting of power from the approved development.

REASON – To comply with Local Plan Policy ENV2.

26. Notwithstanding the submitted details should any external lighting be required at either the construction or operational phases of the development, details of such lighting including measures to prevent light spillage, shall be submitted to and approved in writing by the Local Planning Authority. Any such external lighting as approved shall be installed in accordance with the approved details and shall be retained as such for the lifetime of the development.

REASON – To minimise possible light pollution in the interests of visual and residential amenity

27. Prior to the commencement of the development hereby approved, pre-construction survey checks shall be undertaken for the presence of badgers and water voles, and the results of the survey and any necessary mitigation measures required shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved mitigation measures shall be implemented in full.

REASON - To ensure any impacts on protected species can be appropriately mitigated.

## **INFORMATIVES**

### **Highways Informatives**

The developer is required to enter into an agreement under Section 59 of the Highways Act 1980 prior to commencement of the works on site, where Darlington Borough Council, acting as the Highway Authority, wish to safeguard the public highway from damage caused by any Construction Traffic serving the development. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mr Steve Pryke 01325 406663) to discuss this matter.

The applicant is advised that works are required within the public highway to construct a new 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 Section 184 of the Highways Act 1980 to execute the works.

### **Public Rights of Way Informative**

Footpath No. 6 in the Parish of Whessoe shall remain open and unobstructed at all times during the construction period of the development.

### **Drainage Informatives**

The proposed maintenance road crosses the unmanned watercourse in three locations. Land Drainage Consent must be obtained for these watercourse crossings. A Land Drainage Consent

is a separate application that could take up to 8 weeks for completion and no works on the watercourse can proceed until consent has been approved by the LLFA. Contact [LLFA@stockton.gov.uk](mailto:LLFA@stockton.gov.uk)

### **Network Rail 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 Rail's infrastructure or railway land.

#### **Security of Mutual Boundary**

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

#### **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.

### **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**

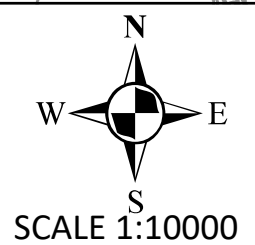
There are likely to be existing railway drainage assets in the vicinity of the proposed works. Please proceed with caution.

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](mailto:assetprotectioneastern@networkrail.co.uk)) for further information and assistance.





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**PLANNING APPLICATIONS COMMITTEE  
9 NOVEMBER 2022**

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**OBJECTION TO TREE PRESEVATION ORDER NUMBER 2022 NO. 08  
23 MERRYBENT, DARLINGTON**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To advise members that an objection has been received in respect of Tree Preservation Order Number 2022 no.08. The objection relates to this order which covers one mature Birch Tree (*Betula spp*) growing within the front garden.

**Summary**

2. Tree Preservation Order 2022 no. 08 was made on 15 September 2022 on one mature Birch Tree growing within the front garden of 23 Merrybent, Darlington, under powers derived from section 198(1) of the Town and Country Planning Act 1990. The Tree Preservation Order was made due to the possibility that the tree may at some point be damaged by unacceptable pruning. In the opinion of the Local Planning Authority it is considered expedient to protect the tree by the making of a Tree Preservation Order as due to its reasonable form and condition and location to the front of the property it contributes to the amenity of the surrounding area.
3. An objection has been received from a neighbour at 21A Merrybent on the grounds that the tree to be protected is a single tree which is not considered to contribute to the overall visual amenity of this area and that there are many similar trees along in the vicinity of equal quality which are not protected; and that the placing of the order may hinder the objector's current planning appeal in respect of the erection of a garage to the front of their property.

**Recommendation**

4. It is recommended that Members confirm the TPO without modification.

**Ian Williams  
Chief Executive**

**Background Papers**

No background papers were used in the preparation of this report.

S17 Crime and Disorder	This report has no implications for crime and disorder
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Health and Wellbeing	There are no Health and Wellbeing issues
Carbon Impact and Climate Change	There is no impact in this report
Diversity	There are no diversity issues
Wards Affected	Heighington and Coniscliffe
Groups Affected	Not applicable
Budget and Policy Framework	This report does not represent a change to the budget and policy framework
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
Council Plan	No significant implications
Efficiency	No significant implications
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

## MAIN REPORT

### Legal and Procedural Background

5. The power to make a Tree Preservation Order is derived from section 198(1) of the Town and Country Planning Act 1990: -

*If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.*

### “Amenity’ and ‘Expediency”

6. Extracts from Government Guidance: -

#### **Amenity**

*‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.*

#### **What might a local authority consider when assessing amenity value?**

*When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, considering the following criteria:*

#### **Visibility**

*The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*

#### **Individual; collective and wider impact**

*Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:*

- *size and form.*
- *future potential as an amenity.*
- *rarity, cultural or historic value.*
- *contribution to, and relationship with, the landscape; and*
- *contribution to the character or appearance of a conservation area.*

### ***Expediency***

*Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.*

*It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases, the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.*

7. The process to be followed in making orders is laid down in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
8. Where a Tree Preservation Order is made, it has immediate provisional effect to protect the tree. This provisional effect will last for six months, or until the Order is confirmed by the planning authority, whichever is the sooner. If the Order is not confirmed within this time period, the Order will fall away.
9. Once the Order has been made, it is served, together with a Notice, on all persons with an interest in the land affected by the Order. The Notice will state the reasons that the Order has been made and will contain information about how objections or representations may be made in relation to the Order.
10. Where an objection is made to the Order then the Planning Applications Committee must consider any such objections and representations and must decide whether or not to confirm the Tree Preservation Order, and, if so, should that be with or without modifications.

### **Decision to make the Tree Preservation Order**

11. Tree Preservation Order 2022 no. 08 was made on 15 September 2022; on one mature Birch Tree growing within the front garden of 23 Merrybent, Darlington.
12. This Tree Preservation Order was made as a result of a request to the Local Planning Authority due to the possibility that the tree may at some point be damaged by unacceptable pruning.
13. The mature Birch Tree is located to the south of the main house within the front garden of no. 23 Merrybent. The Birch Tree is positioned directly behind a hedge that fronts onto the main road.
14. An objection to the Tree Preservation Order has been received from the next-door neighbour (21A Merrybent); in respect of the order being placed on the mature Birch Tree.

15. The Birch Tree is protected by virtue of being within a Conservation Area.

16. The Tree Preservation Order was based on the following grounds:

*"I believe that due to the location and proximity of the tree to a proposed development the tree may suffer from root tissue damaged".*

17. The TPO is appropriate in the general interests of public amenity and in accordance with the Town and Country Planning Act (1990), Town and Country Planning (Tree Preservation) (England) Regulations 2012 and the Office of the Deputy Prime Minister's guidance to fulfil a statutory duty.

### **Summary of Objectors' Comments**

18. Comments in response to the placing of the Order:

(a) The objection is on the basis of the reasoning provided for the imposition of the order on principle. The order relates to a single tree and sites that the tree is healthy, and worthy of protection citing its positive impact on visual amenity. As a single tree this is not considered to contribute to the overall visual amenity of this area given the wider area is typified by open views of open countryside. There are many similar trees along this run of houses which are of equal quality. As such the justification either applies to all or none of the trees in question.

(b) The imposition of this order on a single tree and no other trees in this area seems to relate to the pending planning appeal related to my clients new detached garage (APP/N1350/D/22/3306435). The imposition of this TPO during the determination of a planning appeal and the TPO's specific nature could be considered to be vexatious against my clients appeal. It's our view that insufficient justification exists to impose an order on a single tree in this way.

(c) For the above reasons we would ask that the order not to be made.

### **Summary of Representations**

19. Representation in response to the placing of the Order:

The Birch Tree greatly enhances the whole aspect of the front of the property and has been a main feature of the property for a number of years which needs to continue in the future as a benefit to both the residents and public alike. The tree makes a significant contribution to the visual amenity of the locality.

### **Response to Objector's Comments**

20. In response to the objector's comments, the Council's Senior Arboricultural Officer has not responded to the objector's comments.

### **Consideration of Objections To TPO**

21. As stated above the ground for making a TPO is *'that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.'*
22. Therefore, objections to the TPO should be considered on this basis. The questions to consider are:
  - (a) Would the removal of the tree have a significant negative impact on the local environment and its enjoyment by the public?
  - (b) Is it expedient for the tree to be protected, i.e., is there a risk of the tree being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area?
  - (c) Is the tree dead, dying or dangerous? It would not be appropriate for the Authority make a TPO in these circumstances. By dangerous the test should be is the tree itself hazardous or unsafe.

### **Conclusion**

23. The mature Birch Tree (*Betula spp*) is in reasonable form and condition it is visible from a public place; it has intrinsic beauty and it makes a significant contribution to the landscape.
24. Having considered the comments from the objector and the advice from the Council's Senior Arboricultural Officer, there appears to be no reason why the tree cannot continue to add to the amenity value of the wider community for many years to come which justifies its protection.
25. Consequently, it is considered expedient to protect the tree by the making of a Tree Preservation Order.

### **Recommendation**

26. That Members confirm the TPO without modification.

## Appeal Decision

Site visit made on 21 September 2022

**by David English BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 October 2022**

**Appeal Ref: APP/N1350/Z/22/3303365**

**Land at former Dainton site, Yarm Road, Darlington DL1 4JN**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Town & Country Advertising Limited against the decision of Darlington Borough Council.
- The application Ref 22/00398/ADV, dated 13 April 2022, was refused by notice dated 25 May 2022.
- The advertisements proposed are the display of 2 No. LED signboards.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The location of the proposed advertisements is described variously in the evidence, which refers to current and former businesses at the site. I have taken the location of the site largely from the application form. In any event, the location is clear from the plans.

### Main Issues

3. The main issues are the effect of the advertisements on visual amenity and highway safety.

### Reasons

#### *Visual Amenity*

4. The appeal proposal comprises a 'V'-shaped pair of digital advertising hoardings that would be erected on columns in the grass verge of Yarm Road at its light-controlled junction with Lingfield Way. The signs would face traffic travelling in both directions along Yarm Road which is a green and pleasant route, tree-lined in parts in the vicinity of the appeal site, providing access to, and passing through, a modern commercial area. Wide areas of maturing vegetation along both sides of Yarm Road contribute significantly to the visual appeal of the area.
5. Buildings in the area are generally large and set well back from the highway in substantial grounds and are mostly seen from Yarm Road only partially in glimpses between trees and blocks of shrub planting. The plans show the hoardings appearing above an immediately adjacent block of dense shrubs which, at the time of my site visit, were at least 3 metres above ground level. As a result of their positioning close to the highway, the hoardings would not

sit well with nearby buildings, they would not be contained by surrounding landscaping, rather they would sit alone as large prominent structures towering above the adjacent block of shrubs.

6. Existing advertisements in the vicinity are limited to a handful of non-illuminated boards and banners nestled within vegetation and set back from the carriageway. While the proposals would not appear to clutter the area, and they would have no cumulative impact in respect of their association with other nearby signs, they would be significantly different in character to those few existing signs by virtue of their size, height and proximity to the carriageway. This would introduce a new and incongruent feature to the area.
7. Illumination would draw attention to the prominence of the hoardings which, notwithstanding the commercial nature of uses in the area, is mostly characterised by substantial vegetation giving the feeling of being in an area of transition from rural to urban and vice-versa. Expectations of highway users in respect of advertisements likely to be seen in the area would be tempered by this impression. The proposals would therefore appear as large, intrusive and alien features when set against their prevailing backdrop.
8. The proposals would have a dominant and intrusive appearance for the reasons I have set out and this would be harmful to visual amenity.
9. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are material in respect of amenity. Policy DC4 of the Darlington Local Plan 2016-2036 (February 2022) ('the Local Plan') which seeks to protect amenity, is material in this case. Given that I have concluded that the proposals would harm visual amenity, they would conflict with this policy.

#### *Highway Safety*

10. Whilst this section of Yarm Road is subject to 40mph speed limits, I saw that traffic tended to approach the signalised junction with caution and at reduced speeds which is consistent with the anticipation drivers would reasonably be expected to demonstrate at such junctions.
11. Traffic controls and directional signage at or near to the junction is not complicated or uncommon in respect of such junctions. The proposed hoardings would be readily visible for some distance when approaching from either direction on Yarm Road. Accordingly, highway users would see the signs in context, standing apart from other sources of information, in sufficient time to react safely to directional signage and to the traffic lights thereby ensuring highway safety is maintained. The movement of pedestrians and cyclists are unlikely to be a distracting feature given that such movements across the carriageway would normally be expected to arise when traffic has stopped.
12. The position of the hoardings in an area between, and set back from, the traffic light columns on Yarm Road is such that neither would obscure views of the traffic lights. The hoardings would be at or near to a position perpendicular to Yarm Road and their displays would not be easily visible from Lingfield Way. Given their positioning, the displays on the hoardings would not cause distraction from any approach to the junction to the extent that they would result in harm to highway safety.



13. The effect of the advertisements would not cause harm to highway safety for the reasons I have set out.
14. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are material in respect of public safety. Policy IN1 of the Local Plan seeks to ensure that development impacts are mitigated at key junctions and is therefore material in this case. I have concluded that the proposals would not cause harm to highway safety, and they would therefore not conflict with Policy IN1. However, this does not mitigate the harm to visual amenity I have identified.

### **Other Matters**

15. Digital advertisement hoardings may bring benefits in terms of opportunities for their use in public announcements and for non-commercial purposes. They may also stimulate and support commercial and economic activity. However, recognising that The National Planning Policy Framework ('the Framework') indicates that advertisements are subject to control only in the interests of amenity and public safety, taking account of cumulative impacts, these are not matters to which I can have regard. The necessity for advertisements is not a matter related to the interests of amenity or public safety and, having regard to the Framework, this is also not a matter to which I can have regard.

### **Conclusion**

16. Although I have not found harm to interests of public safety, I have to the issue of visual amenity, and that is the prevailing consideration. Therefore, for the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

*David English*

INSPECTOR

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## Appeal Decision

Site visit made on 12 July 2022

**by Diane Cragg DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date:**

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**Appeal Ref: APP/TPO/N1350/8910**

**20 Freville Grove, Darlington DL3 9QN**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
  - The appeal is made by Tim Paver against the decision of Darlington Borough Council.
  - The application Ref:21/01208/TF dated 20 October 2021 was refused by notice dated 25 November 2021.
  - The work proposed is: Oak Tree prune back overhanging branches.
  - The relevant Tree Preservation Order (TPO) is Tree Preservation (No.1) Order 1951 and Variation Order No 1 2012 which were confirmed on 6 September 1951 and 6 March 2012 respectively.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council formally adopted the Darlington Borough Local Plan 2016-2036 (February 2022) (DLP) during the appeal process. Both main parties have had the opportunity to comment on the implications of the relevant policies in the DLP for the appeal. Nevertheless, while I have taken account of the policies that the Council considers to be relevant in the DLP, in accordance with the Planning Practice Guidance, these have not been decisive in my determination of this appeal.

### Main Issues

3. The main issues are the effect of the proposed pruning works on the character and appearance of the area and whether sufficient justification for the works has been demonstrated.

### Reasons

4. The mature oak tree is adjacent to the side boundary of 20 Freville Grove (No 20) at the entrance to an open space that provides footpath access between Freville Grove and Fulthorpe Avenue. It is the most prominent tree of those within the open space when viewed from Freville Grove.
5. The oak tree crown appears balanced and well-structured, and the form of the tree is particularly attractive in its setting. It is a distinctive feature at the head of the Freville Grove cul-de-sac that makes a significant contribution to the character and appearance of the area.

6. The appellant indicates that the pruning of the oak tree is required to provide clearance of the drive and house roof. The application form refers to pruning back overhanging branches. The Council refers to raising the crown of the tree to 6 metres, but the appellant states on the appeal form that it is not proposed to raise the crown but to remove part of a branch. In other correspondence reference is made to the need to shorten two branches by 3 to 4 metres and it is suggested by the appellant that it may be necessary to prune other branches for the appearance of the tree.
7. Even though the extent of the pruning work is not clear, in its highly prominent location, pruning works to the side of the oak tree adjacent to No 20 would notably change its balanced and attractive crown form. As a consequence, the contribution the tree makes to the street scene would be diminished. Therefore, any justification for pruning works must be convincing.

#### *Justification*

8. The oak tree appears to be sound and healthy, and no substantive evidence has been submitted that indicates pruning works are necessary for the health of the tree. Further, the application form states that the proposed works are not required because of the condition of the tree or because of damage to property.
9. I acknowledge the appellant's concern about sap and leaf fall, nevertheless, issues with falling debris are not unusual and whilst this may create a maintenance inconvenience, it also goes hand-in-hand with living in an area which is defined by a mature landscape, and which provides an attractive place to live and work. Further, such matters are likely to be seasonal, there are areas of the drive that are outside the canopy of the tree and there is also the possibility that car covers to protect paint work could be used at certain times.
10. I observed at my site visit that tree branches are growing towards the house, and I appreciate that some limited pruning work may be required at some point to allow clearance of the roof. However, extensive, or poorly conceived pruning works involving several cuts may become the entry point for disease and decay and can lead to the decline of the tree. Therefore, any proposed pruning work should be clearly specified.
11. In addition, as the appellant does not own the tree, any consented pruning may be difficult to implement on land outside the appellant's ownership. In this situation, it is essential that there is sufficient information to ensure that appropriate pruning is well planned and can be properly executed without damage or disfigurement to the tree.
12. Whilst I acknowledge that some pruning of the tree was undertaken 2 years ago, previous work is not a reason to undertake further pruning. Also, it appears, from the limited evidence before me, that the previous work was carried out with the owner's consent.
13. Although not determinative, the Council cites conflict with Policy ENV4 of the DLP which amongst other matters seeks to enhance visual amenity, biodiversity, and landscape. I find that the pruning work would conflict with this policy because the removal of branches from one side of the tree would result in harm to its overall attractive crown form.

## **Conclusion**

14. With any application to carry out works to protected trees, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area otherwise the outcome would be a gradual erosion of the character and appearance of that area.
15. In this case, although the extent of the work is not clear, any pruning of this important tree would result in at least moderate harm to the character and appearance of the area. In my judgement, insufficient reason and information has been provided to justify such work.
16. Therefore, for the reasons given above, the appeal is dismissed.

*Diane Cragg*

INSPECTOR

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## Appeal Decision

Site visit made on 17 October 2022

**by T J Burnham BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> October 2022**

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**Appeal Ref: APP/N1350/W/22/3299023**

**87 Barmpton Lane, Darlington DL1 3HG**

- 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 Ms P Fletcher against the decision of Darlington Borough Council.
  - The application Ref 20/01126/FUL, dated 18 November 2020, was refused by notice dated 10 February 2022.
  - The development proposed is construction of one 2 bedroom single storey dwelling and one 3 bedroom two storey dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of the proposal has altered from the initial planning application form to 'demolition of lean-to to existing dwelling, erection of 1no. two bed single storey dwelling to front and demolition of existing garage to accommodate erection of 1no. two bed single storey dwelling to rear, with associated parking and landscaping works'.
3. This appears to have been as a result of an amendment made during the course of the application to reduce the scale of the dwelling proposed to the front of the site. The revised description appears on the decision notice and has also been adopted on the appeal form. I have therefore determined the appeal on the basis of the revised description.
4. The Darlington Local Plan 2016-2036 (DLP) was adopted on 18 February 2022, in relation to this appeal replacing the Core Strategy and Borough of Darlington Local Plan. I am required to make my decision based on the policy in place at the time of the decision and I have been provided with policies from the DLP which are considered relevant to the proposal.
5. The existing dwelling has been suggested by the Council as the former lodge house to the now demolished Whinfield Manor and is considered a non-designated heritage asset.

### Main Issues

6. The main issues are the effect of the proposal on the character and appearance of the area, the effect of the proposal on the living conditions of occupiers of nearby dwellings and the effect of the proposal on the non-designated heritage asset.

## Reasons

### *Character and appearance*

7. By reason of the robust boundary treatment towards the back of the site and boundary tree cover, the dwelling proposed to the rear which would be of flat roofed form and limited in height would have little visibility from outside of the site.
8. The dwelling to the front of the site would however be far more prominent from Barmpton Road. It would however be modest in scale, width and depth and would benefit from a set back from the road. It would be set on a similar building line to properties on the western side of the road to the north and south, the bungalow design is reflective of similar properties on the eastern side of Barmpton Road.
9. The layout however proposes a significant amount of parking space to the front of the site where six spaces would be provided to serve the existing dwelling and those proposed. This would be likely to involve the provision of significant areas of hardstanding to host multiple cars.
10. The only relief to the hard frontage, which would contrast sharply with the existing lawned and planted area, would be a small area of grass appearing to serve the bungalow to the front. There would also be a contrast with other properties within the area which generally incorporate small front gardens with modest, well-spaced driveways.
11. It is therefore the concentration of parking areas to the extent proposed to the front of the site which would cause significant harm to the character and appearance of the area. The proposal would therefore conflict with Policy DC1 of the DLP which amongst other things requires that design responds positively to the local context in terms of layout and form.

### *Living conditions*

12. On what is not an especially spacious plot, the additional dwellings are likely to create a number of comings and goings throughout the day with residents coming and going and other movements associated with deliveries and other servicing requirements.
13. Ultimately, it would be the comings and goings associated with the dwelling to the rear which would be most harmful to the living conditions of the occupiers of nearby dwellings.
14. In contrast with Barmpton Lane which accommodates a degree of activity, the rear garden area is quiet and is backed onto by the residential gardens of other nearby dwellings. The rear dwelling would see activity introduced into this quiet area close to the garden boundaries of adjoining dwellings and anyone accessing the dwelling would have to pass directly the main front elevation of 87 Barmpton Road itself.
15. This activity would therefore sharply contrast with the existing nature of the site and would be significantly harmful to the living conditions of the occupiers of nearby dwellings as a result of noise and disturbance.
16. The proposal would subsequently conflict with Policy H8 of the DLP which advises that the development of a rear residential garden for a new residential



dwelling will not normally be permitted. Further, amongst other things it states that such development should not have a significant adverse impact on rear garden land that contributes to amenity of residents.

*Non-designated heritage asset*

17. The site could be considered historically interesting to some degree given that the orientation of the existing dwelling at the site is at odds with the general grain and pattern of development within the area. There could be some historical significance by reason of associations with the previously demolished manor.
18. However, housing development in a modern form and pattern completely surrounds the site. It's setting therefore makes no tangible contribution to the significance of the asset. It therefore follows that further residential development within close proximity to the lodge house would not result in a loss of significance to the non-designated heritage asset.
19. Subsequently, there would be no conflict with Policy ENV1 of the DLP which amongst other things broadly seeks to guard against harm to the significance of non-designated heritage assets.

**Other Matters**

20. It is the case that the proposal would contribute to housing choice and supply in the area and that there is limited neighbour objection. The first matter would be a benefit, although a very modest one bearing in mind the limited scale of the scheme. These matters do not however outweigh the harm identified.
21. Natural England has recently updated the conservation status of the Teesmouth & Cleveland Coast SPA/Ramsar. Concern over water quality is identified with regard to nitrogen. However, given that I am dismissing the appeal for other reasons, I will not explore this matter further.

**Conclusion and planning balance**

22. There is nothing to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

*T J Burnham*

INSPECTOR

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