

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 11 May 2022**

---

**APPLICATION REF. NO:** 21/00753/FUL

**STATUTORY DECISION DATE:** 18 May 2022

**WARD/PARISH:** Heighington And Coniscliffe

**LOCATION:** Five Acres, Lime Lane Brafferton

**DESCRIPTION:** Change of use of agricultural land to land to be used as community garden for post 16 yr school leavers with learning difficulties comprising of new vehicle access together with 1 no. day centre/barn with plant room, 3 no. polytunnels, raised walkways and decking, car parking, cycle storage, community and sensory gardens, animal areas with stable block and feed shed and other associated works (additional ecology information received 13 January 2022; amended Design and Access Statement; amended and additional plans received 16 March and 27 April 2022)

**APPLICANT:** Five Acres Community Garden

---

**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

---

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

**APPLICATION AND SITE DESCRIPTION**

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

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

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

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

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

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

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

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

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

#### **MAIN PLANNING ISSUES**

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

#### **PLANNING POLICIES**

9. The following policies are relevant:

## **National Planning Policy Framework (2021)**

### **Darlington Local Plan 2016 – 2036**

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

### **RESULTS OF TECHNICAL CONSULTATION**

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

### **RESULTS OF PUBLICITY AND NOTIFICATION**

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

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

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

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

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

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

## **19. PLANNING ISSUES/ANALYSIS**

### **a) Planning Policy**

20. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2021) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
21. The application site is located outside the development limits identified on the Policies Map of the Darlington Local Plan and therefore the proposal is classified as taking place in the open countryside (Policy H3). The development limits help to protect the open countryside between settlements and preserve the countryside’s intrinsic character and beauty.
22. Economic development is generally not acceptable in principle outside the development limits unless said development has regard to criteria set out in Policy E4 (Economic Development in the Open Countryside) of the Local Plan. As a charitable community development, the proposed development does not fit easily within the parameters of Policy E4 but Section C of the policy states that proposals for outdoor leisure uses will be supported in appropriate locations, provided their impact on the open countryside is minimised, and they provide satisfactory access arrangements and protect amenity. Furthermore, Policy IN10 (Supporting the Delivery of Community and Social Infrastructure) states that proposals for new community services and facilities will be supported in accessible locations providing that the scale of development is appropriate to the area in which it is proposed.

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

**b) Sustainable Location and Connectivity**

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

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

**c) Highway Safety and Parking**

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

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

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

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

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

**d) Amenity and Site Security**

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

**e) Impact on Visual Appearance and Character of the Area**

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

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

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

#### **f) Ecology**

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

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

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

**g) Impact on Trees**

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

**h) Drainage and Flood Risk**

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

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

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

**i) Contaminated Land**

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

**j) Archaeology**

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

**k) Nutrient neutrality**

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

## **THE PUBLIC SECTOR EQUALITY DUTY**

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

## **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

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

## **CONCLUSION AND RECOMMENDATION**

71. The application site is not located within the development limits identified by the Policies Map of the Darlington Local Plan 2016 – 2036. The local development plan does support the principle of economic development proposals and outdoor leisure uses in appropriate sustainable locations, provided their impact on the open countryside is minimised, and they provide satisfactory access arrangements and protect amenity. The National Planning Policy Framework 2021 recognises that not all local business and community needs proposals in rural areas can be found adjacent to or beyond existing settlements and development limits and are in locations that are not well served by public transport.
72. The application site is not fully accessible by all modes of sustainable transport such as public transport, cycling or walking but those that would use the facility can access the site through the TeesFlex booking service, the applicant's private transport company as well as via private motor vehicles of parents/carers. The fact that a rural location is very beneficial for the proposed use and to the persons that would use the facility is a material planning consideration in this case and having considered all material planning considerations in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004, the principle of the development can be supported.

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

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

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

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

3. Prior to the commencement of the development, including demolition, a site specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail. The Plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
  - a. Hours of construction and deliveries
  - b. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
  - c. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within

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

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

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

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

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

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

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

REASON: In the interests of the amenity of the area

6. Prior to the commencement of the development hereby approved, a scheme to protect the existing trees shown within the submitted Arboricultural Impact Assessment to be retained shall be implemented on site. The scheme shall comprise generally the specification laid down within BS 5837 2012 and shall include fencing of at least 2.3m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The fencing shall be erected along the root protection areas shown on Drawing Number Any0\_Lime Lane\_AIA.1DRAFT (Appendix 1 of the submitted Arboricultural Impact Assessment produced by Dendra). Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- (a) The raising or lowering of levels in relation to the existing ground levels;
- (b) Cutting of roots, digging of trenches or removal of soil;
- (c) Erection of temporary buildings, roads or carrying out of any engineering operations;

- (d) Lighting of fires;
- (e) Driving of vehicles or storage of materials and equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

REASON: In the interests of the amenity of the area

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

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

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

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

15. The access and visibility work as shown on Drawing Number 21-010\_X\_SP (00)05\_XX) (Proposed - Access & Visibility) must be fully completed prior to the commencement of the use and retained thereafter for the lifetime of the development  
REASON: - in the interests of highway safety
  
16. Notwithstanding the details shown on Drawing Number 21-010\_X\_SP(00)05\_XX ) (Proposed - Access & Visibility) the first 12m of the internal access road, measured back from the carriageway edge shall be formed in a sealed material and the access gates shall not open outward over the public highway  
REASON: In the interests of highway safety

## **INFORMATIVES**

### **Highways**

#### **Section 184 Crossover**

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

#### **Environmental Health**

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

#### **Network Rail Standard Informatives**

##### **Fail Safe Use of Crane and Plant**

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

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.

##### **Excavations/Earthworks**

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect

the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

### **Security of Mutual Boundary**

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

### **Demolition**

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

### **Vibro-impact Machinery**

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

### **Scaffolding**

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

### **Bridge Strikes**

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem. If required there may be a need to fit bridge protection barriers which may be at the developer's expense.

### **Abnormal Loads**

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

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

### **Two Metre Boundary**

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

### **ENCROACHMENT**

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail airspace and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or airspace is an act of trespass and we would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

### **Access to the Railway**

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

### **Standard Drainage Requirements**

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

Water must not be caused to pond on or near railway land either during or after any construction-related activity.

The construction of soakaways for storm or surface water drainage should not take place within 20m of the Network Rail boundary. Any new drains are to be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment.

The construction of soakaways within any lease area is not permitted.

The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 20m of the Network Rail boundary where these systems are proposed to be **below** existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 30m of the Network Rail boundary where these systems are proposed to be **above** existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

If a Network Rail-owned underline structure (such as a culvert, pipe or drain) is intended to act as a means of conveying surface water within or away from the development, then all parties must work together to ensure that the structure is fit for purpose and able to take the proposed flows without risk to the safety of the railway or the surrounding land.

#### **Wayleaves and or easements for underline drainage assets**

The position of any underline drainage asset shall not be within 5m of drainage assets, sensitive operational equipment such as switches and crossings, track joints, welds, overhead line stanchions and line side equipment, and not within 15m of bridges, culverts, retaining walls and other structures supporting railway live loading.

#### **Protection of existing railway drainage assets within a clearance area**

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

No connection of drainage shall be made to these assets without Network Rail's prior consent to detailed proposals. Any works within 5m of the assets will require prior consent.

There must be no interfering with existing drainage assets/systems without Network Rail's written permission.

The developer is asked to ascertain with Network Rail the existence of any existing railway drainage assets or systems in the vicinity of the development area before work starts on site. Please contact Asset Protection ([assetprotectioneastern@networkrail.co.uk](mailto:assetprotectioneastern@networkrail.co.uk)) for further information and assistance.